

1Supporting Statement A
30 CFR Parts 779 & 783 –
Surface and Underground Mining Permit Applications –
Minimum Requirements for Information on
Environmental Resources and Conditions

OMB Control Number 1029-xxx2

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

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to request approval for revisions to our information collection authority for 30 CFR 779 and 783 of the OSMRE permanent regulatory program. These regulations govern the minimum requirements for information on environmental resources for coal mining permit applications.

OSMRE is proposing a Stream Protection Rule which will modify the collection requirements in 30 CFR 779.19/783.19, 779.20/783.20, and 779.24/783.24. 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 these parts and assigned control number 1029-0035. 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.*

Sections 507 and 508 of the Surface Mining Control and Reclamation Act of 1977 (Act) require that the permit application contain adequate descriptions of the premining topography and landforms; cultural, historic, and archeological resources of the area; climatological and vegetation information; fish, wildlife, and biological resources information, soils and land use information; and maps and plans for water quality and quantity, coal seam analysis, underground mine workings, and the location of oil and gas wells.

The proposed rules are consistent with section 508(a) of SMCRA, which provides that—

Each reclamation plan submitted as part of a permit application pursuant to any approved State program or a Federal program under the provisions of this Act shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal program can be accomplished, a statement of ***

(2) the condition of the land to be covered by the permit prior to any mining including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover, and, if applicable, a soil survey prepared pursuant to section 507(b)(16).

The proposed rule would also implement, in part, section 515(b)(24) of SMCRA, which requires that operations at a minimum, “to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.”

The proposed rule is consistent with section 102(c) of SMCRA, which provides that one of the purposes of the Act is to “assure that surface mining operations are not conducted where reclamation as required by this Act is not feasible.”

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.*

Information is collected by surface and underground coal mining applicants. The information is used by regulatory authorities to determine whether the applicant will be able to comply with the performance standards of Subchapter K.

The information is necessary to determine whether there exists endangered or threatened species, as well as long and short-term reduction of productivity and capability of the land involved. Specific data analysis and baseline information requirements are necessary in developing a revegetation plan that meets the Act's requirements for reestablishment of a diverse, permanent, self-reproducing plant cover natural to the area, the restoration of normal plant succession, season and geographic diversity of permanent vegetation associated with the mine area or affected area. The data establishes a means of documenting bond release standards and identifying critical habitats of other dependent biota. Also, the information collected is used by the regulatory authority in determining if the reclamation and mining operations are sufficient to protect, minimize, restore, and enhance fish, wildlife, biological, and related resources, held in public trust by the state or federal government.

779.19/783.19 of the proposed rule, concerning vegetation information, would require the applicant to identify, describe, and map existing vegetation and plant communities as well as those plant communities that would exist under conditions of natural succession. In addition these requirements would need to address any vegetation that provides important habitat for fish and wildlife and any native plant communities of local or regional significance. The proposed rule would require these provisions to be addressed utilizing the National Vegetation Classification Standard, and the Society of American Foresters' publication "Forest Cover Types of the United States and Canada" if the site has a forest cover or has the potential to succeed to forest cover. The proposed rule would allow for the use of alternative generally accepted vegetation classification methods if approved by the regulatory authority. The proposed rule would also require a discussion of the potential for reestablishing those plant communities that existed, or that would have existed as a result of natural succession, on the proposed permit subsequent to the completion of mining.

779.20/783.20 of the proposed rule would require information on fish and wildlife resources. The proposed rule lists the types of habitats of unusually high value to fish and wildlife that would trigger the submission of site specific resource information, and would include specialized reproduction or wintering areas and areas that support populations of endemic species that are vulnerable because of restricted ranges, limited mobility, limited reproductive capacity, or specialized habitat requirements. These specialized habitat areas are proposed to be included, as critical life history components for many species, to ensure that their influence on fish, wildlife, and related environmental values are considered in a Fish and Wildlife Protection and Enhancement Plan. The proposed list of habitats that would trigger the submission of site specific information would be expanded to include species identified by a state or federal agency as sensitive; intermittent or perennial streams, as those terms are proposed to be defined

at 701.5; and native plant communities that are significant on a local or regional basis.

The proposed rule would address the procedures that the regulatory authority must follow regarding the disposition of comments from the U.S. Fish and Wildlife Service on the site specific information provided under this section. The resolution of all comments received from the Service would need to be fully documented by the regulatory authority including the reason for rejecting any recommendations of the Service with regard to a specific permit application. In addition the proposed rule states that disputes over these issues between the regulatory authority and Service would be resolved through a process similar to the one laid out in the current Formal Section 7 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations under the Surface Mining Control and Reclamation Act of 1977.

The proposed rule language would allow the regulatory authority to develop criteria for the prevention of adverse impacts to streams and watersheds in the permit and adjacent area in order to protect exceptional environmental values on a site specific basis in cooperation with state and federal fish and wildlife agencies, and Clean Water Act authorities. This provision recognizes the on-going efforts to coordinate agency efforts to better protect streams and related environmental values, and that through coordination of overlapping authorities unique environmental resources could be identified, and protected as necessary to prevent irreparable loss or elimination.

779.21/783.21 of the proposed rule would require a map showing all soil mapping units located within the proposed permit area, if the National Cooperative Soil Survey (NCSS) has completed and published a soil survey for the area. In addition the proposed rule would require a description of soil depths; and detailed information on soil quality if the permit applicant seeks approval for the use of soil substitutes or supplements.

779.24/783.24 of the proposed rule would authorize the regulatory authority to require maps, plans and cross-sections to be submitted in a digital format, and would add a requirement for the applicant to map public water supplies, wellhead protection zones, and any discharge into or from underground mines that are hydrologically connected to, or within one-half mile of, the proposed permit.

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.*

Most of the information collected for 30 CFR 779 and 783 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 information requested by 30 CFR 779 and 783 is unique to each person or site. Circumstances vary with each proposed coal mining site in which a permit application has been received. Thus, there is no available information that can be used in lieu of that supplied on each application. Information is collected infrequently (generally only once, at the time that a person submits an application for surface or underground coal mining and reclamation operations). Duplication of such information is minimal to nonexistent.

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.*

Information is collected only at the time an application is made; therefore, frequency of collection does not apply here.

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.*

No collection of information for 30 CFR 779 & 783 is inconsistent with the guidelines in 5 CFR 1320.5(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 and adjustments as a result of this review and have incorporated them into this collection request.

In the Spring 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 and SRA's provide no 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.*

Not applicable. In general, confidential information is not provided. However, the permit applicant may request that certain portions of the application be held confidential for certain business or other reasons, such as coal reserves in the planned mining area or to protect the location of archeological resources on public and Indian lands. These requests are handled in accordance with the procedures provided for in §773.13(d).

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. There are no questions of a sensitive nature.

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 and underground 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 on respondents. 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.

30 CFR 779 & 783 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden	Annual Burden Hours	Change due to Rule
779.17 & 783.17 Information on cultural, historic, and archeological resources	Operators	223	485	108,155	0
	State regulatory authorities	220	7	1,540	0
779.18 & 783.18 Climatological information	Operators	223	4	892	0
	State regulatory authorities	220	1	220	0
779.19 & 783.19 Vegetation information	Operators	223	36	8,028	4,460
	State regulatory authorities	220	2.25	495	440
779.20 & 783.20 Information on fish and wildlife resources	Operators	223	24	5,352	1,752
	State regulatory authorities	220	12	2,640	440
779.20 & 783.20 Soils information	Operators	223	10	2,230	2,230
	State regulatory authorities	220	1	220	220
779.22 & 783.22 Land use information	Operators	223	40	8,920	0
	State regulatory authorities	220	7.5	1,650	0
779.24 & 783.24 Maps, plans, and cross sections	Operators	223	335	74,705	0
	State regulatory authorities	220	14.75	3,245	0
Total Hour Burden by Respondent	Operators	223		208,282	8,442
	State regulatory authorities	220		10,010	1,100
Total Hour Burden				218,292	9,542

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#b00-0000 for State employees. 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-15-0386, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2014, dated March 11, 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
Physical Scientist	39.20	54.88	40%	\$21.95
Engineer (General)	41.99	58.79	40%	\$23.52
Operations Manager	58.31	81.63	10%	\$8.16
Total			100%	0

At an average cost of \$56.26 per hour, the estimated total annual cost for industry respondents for parts 779 and 783 is 208,282 hours x \$56.26 = \$11,717,945.

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
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At an average cost of \$49.79 per hour, the estimated total annual cost for state respondents for parts 779 and 783 is 10,010 hours x \$49.79 = \$498,398.

The total wage cost for all respondents is \$12,216,343.

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. Annualized Capital and Start-up Costs

Compliance with 30 CFR 779 & 783 does not involve any capital or start-up costs apart from those associated with customary business practices in the mining industry.

b. Operation and Maintenance Costs

Non-Wage Cost to Respondents for 30 CFR Parts 779 and 783

Section	Number of Annual Responses	Cost per Respondent (\$)	Total Non-Wage Cost (\$)
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779 & 783.17	223	0	0
779 & 783.18	223	0	0
779 & 783.19	223	\$10	\$2,230
779 & 783.20	223	0	0
779 & 783.21	223	0	0
779 & 783.22	223	0	0
779 & 783.24	223	\$500	\$111,500
779 & 783.25	223	0	0
Total Non-Wage Cost			\$113,730

For parts 779 & 783.19, each applicant for a coal mining permit will spend approximately \$10 for purchasing reference materials. For parts 779 & 783.24 each applicant for a coal mining permit will spend approximately \$500 in survey fees for additional mapping. This non-wage increase is due to the proposed rule.

The total non-wage cost to all respondents is \$113,730.

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
		Responses	Hour Burden	Total Burden Hours	
779 & 783.17	10	3	5	15	25
779 & 783.18	1	3	1	3	4
779 & 783.19	48	3	2	6	54
779 & 783.20	96	3	2	6	102

779 & 783.21	1	3	1	3	4
779 & 783.22	60	3	8	24	84
779 & 783.24	16	3	7	21	37
TOTALS	0	3		0	0

Based on the U.S. Office of Personnel Management Salary Table 2014-RUS located at, <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2014/general-schedule/rest-of-us-hourlyovertime-rates-by-grade-and-step/>, the annual average salary used to estimate the wage cost to the Federal Government is \$43.56 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 \$65 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/ecec.nr0.htm>)] was added for benefits.

At an average cost of \$65 an hour, OSMRE’s cost to the federal government is estimated to be \$20,150 (\$65 per hour x 310 hours).

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. This reestimated in burden does not include instances where burden is moved between sections or parts which would not affect burden to respondents.

208,750	hours currently approved
+ 9,542	hours as program changes
218,292	hours requested

This information collection request will include a non-wage cost burden of \$113,730, all of which is derived from the proposed rule.

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.

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*.