

Supporting Statement A
30 CFR Part 875 – Noncoal Reclamation
OMB Control Number 1029-0103

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 (OSM) to continue collection authority for 30 CFR Part 875. This part establishes the requirements and procedures allowing States and Indian tribes to conduct noncoal reclamation under the Abandoned Mine Land fund as directed through legislation, Public Law 101-508. The information collection for 30 CFR Part 875 was previously approved by the Office of Management and Budget (OMB) and was given clearance number 1029-0103.

§875.13 – Certification of Completion of Coal Sites.

Justification

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

OSM amended its Abandoned Mine Land Reclamation regulations in November 1993 which modified 30 CFR Subchapter R, Part 875 - Noncoal Reclamation, in order to conform with Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, as amended by the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 (November 5, 1990). This legislation expands the rights of States/Indian tribe which have certified the completion of all known coal problems to utilize State/Indian tribes share funds for noncoal reclamation purposes, including the protection, repair, replacement, construction, or enhancement of public facilities damaged by past mining practices or which exist in communities adversely impacted by present mining activities.

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.*

In order to implement a noncoal reclamation program as set forth in Section 411 of SMCRA, a Governor of a State or equivalent head of an Indian tribe must certify to the Secretary that the State/Indian tribe has achieved all known coal related reclamation objectives. Section 875.13(a) provides the requirements for this certification. Briefly, a State/Indian tribe would have to provide a discussion of the process and rationale for its certification, in conjunction with an analysis of the public involvement process used and any public comments received. This information would be used to assist the Director, OSM, in his/her certification concurrence finding as required by regulation, and ensure that the public had been properly canvassed to ascertain that all coal problems had in fact been addressed. Also, section 875.13(a) requires a State/Indian tribe to describe its ability to fund potential coal related problems that may occur after certification. This information would ensure that States/Indian tribes which have specific knowledge of potential future coal problems will reserve sufficient funds to address these problems when and if they occur.

30 CFR 875.15 implements section 411(f) of SMCRA. This section allows a State/Indian tribe to request funding notwithstanding the priorities in Section 411 for a public facility if a Governor or equivalent head of an Indian tribe determines there is a need for the construction of the public facility related to the coal or minerals industry in States or on Indian lands impacted by coal or mineral development. Funding is requested through submission of a grant application package, which includes forms OSM-47,

“Budget Information Report”, OSM-49, “Budget Information and Financial Reporting Form”, and OSM-51, “Program Narrative/Performance Report Statement.”

These forms have been approved separately by OMB and assigned information collection control number 1029-0059.

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.*

The information requested is unique to each State/Indian tribe and project. Since OSM requires a signature from the Governor or Tribal chief, and this collection is infrequently used, it is not practical to require States/Tribes to submit their documentation under 875.13 by computer.

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.*

No similar information pertaining to coal completion certification is collected by OSM or by other Federal agencies.

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

The information being requested is the minimum amount necessary in accordance with sections 403, 404 and 411 of SMCRA for the Director to concur with the State’s or Tribe’s certification that all coal-related reclamation projects have been completed. Since OSM provides grants to Indian Tribes to conduct this collection activity there is no significant burden on these small entities.

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.*

Since each coal completion certification is unique and conducted only once per State/Indian tribe, there is no available information or data that would satisfy the respective requirements in lieu of that supplied by the State/Indian tribe.

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.*

Guidelines in 5 CFR 1320.5(d)(2) are not exceeded.

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.

The regulations at 30 CFR Part 875 were published in the Federal Register as a proposed rule on November 8, 1993 (56 FR 57376), to amend OSM's noncoal reclamation regulations at 30 CFR 875. No comments were received on the information collection requirements. The final rule was published on May 31, 1994, in the Federal Register (59 FR 28172).

To date, seven States and Indian tribes have certified completion of coal problems. On May 29, 2007, OSM received a certification of completion of coal reclamation, effective April 1, 2008, from The Crow Tribe.

On January 17, 2012, the following OSM Western Regional officials confirmed that they worked with the Crow Tribe in preparation of its certification of completion of coal reclamation:

1. Alan Boehms, Reclamation Specialist, (307) 261-6546 aboehms@osmre.gov.
2. Jeffrey Fleischman, Director-Casper Field Office, (307) 261-6550 jfleischman@osmre.gov.

These two OSM employees worked closely with the tribe in preparation of their certification, and provided burden estimates for this collection.

On February 1, 2012, OSM published in the Federal Register (77 FR 5049) 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. OSM received one comment, but it did not accurately reflect 30 CFR Part 875, nor was it germane to this information collection. Therefore, we have not changed the collection in response to the comment.

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

As required by SMCRA, OSM provides significant funding to States and Indian Tribes to conduct this collection activity.

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

Not applicable. No confidential information is solicited.

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. Sensitive questions are not asked.

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.*

Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

For purposes of this information collection request, OSM will assume that we receive one certification of noncoal reclamation each year. Based on the discussions with the individuals identified in item 8 above, the Crow Tribe took approximately 10 hours to prepare the letter of certification, and submit it to OSM.

b. Estimated Annual Wage Cost to Respondents

OSM estimates that the request received each year will require 10 hours for a State or Tribal government attorney with an hourly salary of \$39.51 (or \$59.27 with benefits). Salaries are derived from the Bureau of Labor Statistics (BLS) website of wage rates for State government employees (http://www.bls.gov/oes/current/naics4_999200.htm#23-0000). OSM used benefits of 1.5 of salary derived from the Bureau of Labor Statistics news release USDL-11-1718, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2011, dated December 7, 2011 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).

At \$59.27 per hour, the cost to a respondent to prepare the certification would be \$59.27 x 10 hours = \$593 (rounded).

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.*

Not applicable. There are no costs incurred beyond the hourly wage costs.

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.*

OSM will review the one request we receive annually. OSM estimates that it will take approximately 10 hours to assist the State/Tribe in preparation of their certification letter, and 5 hours to prepare a response to the certification. At \$52.51 per hour, or \$78.77 per hour for a program specialist with a GS 14 step 5 salary (based on OPM salary table http://www.opm.gov/oca/12tables/html/RUS_h.asp and using a 1.5 multiplier for benefits as cited above), the annual cost to the Federal government is \$78.77 per hour x 15 hours = \$1,181 per year (rounded).

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

As discussed in Item 12a., we receive one certification of noncoal reclamation each year from State/Tribal reclamation programs. OSM estimates, based on those identified in item 8, that each request requires approximately 10 hours for a respondent to prepare.

Consequently, OSM requests a decrease of 90 burden hours annually for Part 875 due to a re-estimate in respondent burden.

100 hours currently approved by OMB
- 90 hours due an adjustment
10 hours requested

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.*

There are no plans for publication or statistical use of this 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. The OMB approval number is displayed in 30 CFR Part 875.10.

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

Not applicable. No exemption is requested.

§875.15 – Reclamation Priorities for Noncoal Program.

This section duplicates the information collection requirements found in 30 CFR 886. Those requirements have been approved under OMB clearance number 1029-0059.