

Supporting Statement A

30 CFR Part 700 - General

OMB Control Number 1029-0094

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.

Specific Instructions

Justification

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

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.

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.*
 - * *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.*
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.*

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.*
15. *Explain the reasons for any program changes or adjustments in hour or cost burden.*
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 topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."*

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSM) to request permission to continue collecting information under 30 CFR Part 700. The regulations govern termination of jurisdictions, petitions for rulemaking, and citizen suits under the Surface Mining Control and Reclamation Act and its implementing regulations.

This information collection was previously reviewed and approved by the Office of Management and Budget (OMB), control number 1029-0094. The justification statements that follow discuss each section separately.

SUMMARY FOR 30 CFR 700

SECTION	NO. OF RESPONSES	REPORTS/ RESPONDENT	HOURS PER REPORT	TOTAL HOURS REQUESTED	CURRENT ICB HOURS	CHANGE TO ICB
700.11	1	1	1	1	1	0
700.12	1	1	4	4	4	0
700.13	1	1	45	45	20	25
TOTAL	3	1		50	25	25

30 CFR 700.11 - Applicability

Justification

1. As authorized by sections 502, 515, and 516 of the Surface Mining Control and Reclamation Act (SMCRA), 30 CFR 700.11(d)(1) and (2) define the criteria and procedures for determining when regulatory jurisdiction ends under SMCRA over a surface mining control and reclamation operation site. The information required includes a written determination by the regulatory authority that all of the regulatory requirements imposed by either the initial or permanent program have been met and, therefore, there no longer exists a surface coal mining and reclamation operation on the particular site or increment thereof. Initial program sites and permanent program sites will require a written finding by the regulatory authority that all requirements imposed under the regulatory program have been successfully completed. Final bond release for permanent program sites will indicate that the site has met all the applicable regulatory requirements, and jurisdiction may be terminated. This information collection submittal only reflects burden placed on State regulatory authorities under its initial programs to terminate jurisdiction since the State permanent program responsibilities are found at 30 CFR 800 and the collection authority has been approved separately.
2. The information is used by the OSM and States to establish a point where a site is no longer a surface coal mining and reclamation operation and, therefore, regulatory jurisdiction ends.
3. This information is unique to each mining operation. Respondents are State regulatory authorities that prepare documentation prior to terminating regulatory jurisdiction over a surface coal mining operation. Form letters are prepared on computer which reduces the burden placed on State regulatory authorities each time the States prepare to terminate jurisdiction on an interim site or upon completion of reclamation activities after bond forfeiture. Although electronic submission of the written findings is encouraged, since there are so few interim sites remaining, it is not practical for OSM to require State regulatory authorities to submit this information electronically although they could.
4. Since circumstances vary with each permit application, there is no other available source of information that can be used to satisfy the law. No similar information pertaining to terminating jurisdiction over an interim permitted coal mining operation is required by other Federal agencies.
5. There are no small entities associated with this collection. Potential respondents are the 24 State regulatory authorities.
6. Termination of jurisdiction occurs when the regulatory authority determines that all requirements under the regulatory program have been completed. Information collection will occur at these times. Therefore, the frequency of collection does not apply here.
7. Not applicable. There are no special circumstances that require the collection of

information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Based on a review of OSM's 2011 annual report there have been no terminations of jurisdiction in states for the past few years. In October 2012, OSM contacted our Knoxville Field Office which is the regulatory authority in the State of Tennessee to determine the information collection burden required of section 700.11 if a termination of jurisdiction were to be undertaken on an interim program site. Fred Klimas, Chief, Knoxville Field Office Inspection Group, stated that it would take no more than one hour to prepare the written determination required to terminate jurisdiction of an interim program site. He had no concerns with the reporting requirements of the subject regulations or availability of information. The collection is conducted once, therefore, frequency of collection wasn't a factor. His burden estimates have been incorporated into this collection request.

On August 2, 2012, OSM published in the Federal Register (77 FR 46121) 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 provides no payments or gifts to respondents beyond grants authorized by law.
10. There are no confidentiality provisions for this part since termination of liability decisions are a matter of public record.
11. Not applicable. Sensitive questions are not asked.
12. Reporting, Recordkeeping, and Reviewing Burden

a. Estimated Reporting Burden:

Section 30 CFR 700.11(d) requires regulatory authorities to provide written documentation in support of terminating jurisdiction over initial program sites. Based on a review of OSM's annual reports for the past three years, and consultations with the OSM Knoxville and Charleston Field Offices there have been no written determinations regarding termination of jurisdiction on initial program sites over the span of the last three years. Had there been any termination of jurisdiction the burden would have been calculated as follows:

Each written determination requires approximately 1 hour preparing since the written determination is standardized and easily generated.

1 response x 1 hour per response = 1 hour.

b. Estimate of wage cost to respondents:

A State engineer will require 1 hour to prepare the written document. We estimate his/her salary to be \$60.92 per hour, derived from Bureau of Labor Statistics at http://www.bls.gov/oes/current/naics4_999200.htm#17-0000 , and includes benefits. OSM uses a 1.4 multiplier from the ratio between wages and benefits for private sector workers per BLS memorandum USDL-12-1830 for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—JUNE 2012 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>).

At \$60.92 per hour, the cost to the State respondent to review the application and prepare and send a written response would be \$60.92 x 1 hour = \$60.92.

13. Estimated Total Annual Cost

Not applicable. There are no costs incurred beyond the hourly wage costs. All associated inspection time is found at 30 CFR 840.11.

14. Estimate of Cost to the Federal Government

There is no established frequency for conducting oversight reviews of State compliance with the requirements of 30 CFR 700.11. If we were to conduct a special study of this topic in two State programs every four years, that review would require an average of 40 hours per State, or 80 hours every four years. We estimate that a GS13/1 reclamation specialist will conduct the oversight review, earning \$50.97 per hour including benefits. This salary is derived from the Office of Personal Management salary tables (http://www.opm.gov/oca/12tables/html/RUS_h.asp) and includes a 1.3 ratio multiplier for benefits calculated using OSM's Financial and Business Management System. Therefore, 80 hours every four years, or 20 hours annually x \$50.97 per hour = \$1,019.

15. This information collection request does not alter the currently approved burden of one hour.

16. There are no plans to publish this information.

17. Not applicable. The OMB control number is displayed at 30 CFR 700.10.

18. Not applicable. There are no exemptions to the "*Certification for Paperwork Reduction Act Submissions.*"

30 CFR 700.12 – Petitions to Initiate Rulemaking

Justification

1. Section 201(g) of SMCRA provides for a process by which persons may petition the Secretary of the Interior for the “issuance, amendment or repeal of a rule under this Act.” Subsection 201(g)(2)-(4) sets forth the process for such petition. These provisions were implemented as regulations at 30 CFR 700.12(b). This provision gives any person, State or local government an opportunity to initiate rulemaking proceedings by filing a petition for rulemaking with OSM. The petition is required to set forth a concise statement of the facts, technical justification, and law that require the amendment or repeal of a regulation. Petitioners are also to indicate their desire for a public hearing on the petition. Individuals or organizations seeking changes in the regulations volunteer petitions.
2. The information required by this regulation is to be used by the Director of OSM to consider the need, costs and benefits of the proposed regulatory change in order to grant or deny the petition submitted. If the information were not submitted, there could be no petitions for rulemaking, limiting public participation in the regulatory process.
3. This information is unique to each petitioner. Respondents are citizens, State regulatory authorities, and individual companies or entities that request changes to the Federal regulations as needed. Respondents may submit their petition for rulemaking electronically.
4. No similar information pertaining to amending Chapter VII of the Code of Federal Regulations is required by other Federal agencies.
5. There are no special provisions to minimize burden for small coal mining operations or other small entities.
6. Information collection will occur at the time a petition for rulemaking is made; therefore, the frequency of collection does not apply here.
7. Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5(d)(2).
8. In June of 2012, OSM contacted its program staff regarding the information collection requirements associated with filing petitions for rulemaking at 30 CFR 700.12 and found that no such petitions have been filed over the past three years. The results of these discussions are incorporated into this statement. Since OSM has not received a petition recently, there were no respondents of whom to contact.

On August 2, 2012, OSM published in the Federal Register (77 FR 46121) 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. No payments or gifts are provided to respondents.
10. There are no provisions for confidentiality of information since petitions for rulemaking are a matter of public record.
11. Not applicable. Sensitive questions are not asked.

12. Estimated Burden

a. Estimate reporting and reviewing burden:

Based on information supplied by OSM's regional offices no petitions have been submitted during the last several years. Based on previous estimates one petition requires about 4 hours to prepare.

$$1 \text{ petition per year} \times 4 \text{ hours per petition} = 4 \text{ hours}$$

b. Estimated wage cost to respondents:

OSM will assume that one petition will be received each year requesting rulemaking. The request will usually be prepared by an attorney, with a salary of \$92.33, which includes benefits computed at 1.4 of salary and derived from Bureau of Labor Statistics (http://www.bls.gov/oes/current/naics4_541100.htm#23-0000). (OSM derived the 1.4 multiplier from the ratio between wages and benefits for private sector workers per BLS memorandum USDL-12-1830 for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—JUNE 2012 at - <http://www.bls.gov/news.release/pdf/ecec.pdf>).

At \$92.33 per hour, the cost to a respondent to prepare the request would be \$92.33 x 4 hours = \$369.32.

13. Estimated Total Annual Cost

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

14. Estimate of Cost to the Federal Government

It has been previously estimated that it takes OSM staff 80 to 120 hours to review a petition for rulemaking changes and to prepare a written response to accept or deny the petitioners request.

$$100 \text{ hours/petition} \times 1 \text{ petition/year} = 100 \text{ total hours.}$$

A program specialist with a GS 14 step 5 salary will review the request. We estimate a salary of \$59.79 per hour (see http://www.opm.gov/oca/12tables/html/g_s_h.asp). This includes benefits using a 1.3 multiplier from the ratio between wages and benefits derived using OSM's Financial and Business Management System.

The cost to the Federal government would be 100 hours x \$59.79 per hour = approximately \$5,979.

15. This information collection request does not alter the currently approved burden of four hours.
16. There are no plans for publication of this information.
17. Not applicable. The OMB approval information is displayed at 30 CFR 700.10.
18. Not applicable. There are no exemptions to the *"Certification for Paperwork Reduction Act Submissions."*

30 CFR 700.13 – Notice of Citizen Suits

Justification

1. Section 520 of SMCRA authorizes citizens to sue OSM, the Secretary of the Interior, and/or State regulatory authorities to compel regulatory compliance with the SMCRA or duties under the SMCRA that are not discretionary. In 30 CFR 700.13, those citizens intending to sue under Section 520 are required to send notice of such a suit to the Secretary of the Interior and the Director of OSM, the head of the State regulatory authority, (if the State is part of the suit) and the alleged violator (if part of the suit). The person needs to provide certain information pertinent to the suit, such as the section of SMCRA or regulation violated, identification of the party responsible for the violation, identification of the person suing as well as identification of legal counsel.
2. The information is used by OSM or the State to identify the person and the nature of the suit, so that OSM or the State can respond to it. If this information collection were not conducted, OSM and the States could not properly defend themselves under due process.
3. This information is unique to each lawsuit and mining situation. Respondents are citizens and individual companies who intend to sue the Federal and/or State government. Although OSM has not received any notices of intent by electronic means, we are not opposed to this method, and support electronic means to communicate with citizens and industry.
4. No similar information pertaining to citizen suits is required by other Federal agencies relating to the conduct of surface coal mining. Since circumstances vary with each notice of citizen suit, there is no other available source of information that can be used to satisfy the law.
5. There are no special provisions to minimize burden for small coal mining operations or other small entities.
6. Information collection will occur at the time a notice of intent to sue by a citizen is made. Therefore, the frequency of collection does not apply here.
7. Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent with the guidelines in 5 CFR 1 320.5(d)(2).
8. OSM contacted each of our three regional offices to determine the number of citizens' notices of intent to sue State regulatory authorities, OSM, and/or the Secretary of the Interior. We found that we receive a notice of intent to sue approximately once per year.

In October 2012, OSM contacted two citizen groups who have filed notices of intent to sue recently. They were:

Joe Lovett
Executive Director
Appalachian Mountain Advocates
Lewisburg, WV 24901
(304) 645-9006

Mary Cromer
Appalachian Citizen's Law Center
317 Main Street
Whitesburg, KY 41858
(606) 633-3929

Mr. Lovett estimated that it would take approximately 40 - 50 hours to conduct the research and prepare the notice of intent to sue. Ms. Cromer estimated that it would take between 20 - 60 hours to prepare the notice of intent, based on the complexity of the case. Neither individual had concerns or complaints with the reporting requirements of the subject regulations or the information required to be submitted. Their estimates have been incorporated into this collection request.

On August 2, 2012, OSM published in the Federal Register (77 FR 46121) 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. No payments or gifts are provided to respondents.
10. There are no provisions for confidentiality of information since notices of intent are a matter of public record.
11. Not applicable. Sensitive questions are not asked.
12. Reporting, Recordkeeping and Reviewing Burden
 - a. Estimate Reporting Burden:

Based on our discussions with those identified in item 8 above, we estimate that it takes approximately 45 hours for an environmental group to research, prepare and submit a notice of intent to sue. They stated that the burden can vary from 20 hours to 60 hours per response based on the complexity of the suit and extent of research required prior to preparation of the notice. Our regional offices estimate that we receive approximately one notice each year. Therefore:

$$1 \text{ notice annually} \times 45 \text{ hours/notice} = 45 \text{ hours.}$$

b. Estimate of wage cost to respondents:

OSM estimates that approximately 1 notice to file a citizen suit will be received each year. Notices will usually be prepared by an attorney, with a salary of \$92.33, which includes benefits computed at a rate of 1.4 of salary. OSM estimates salaries based on the Bureau of Labor Statistics (http://www.bls.gov/oes/current/naics4_541100.htm#23-0000). OSM derived the 1.4 multiplier from the ratio between wages and benefits for private sector workers per BLS memorandum USDL-12-1830 for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—JUNE 2012 at - <http://www.bls.gov/news.release/pdf/ecec.pdf> .

At \$92.33 per hour, the cost to a respondent to prepare the notice would be \$92.33 x 45 hours = approximately \$4,155.

13. Estimate of Total Annual Cost

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

14. Estimated Cost to the Federal Government

Assuming that one notice of a citizen suit is filed with OSM, the State regulatory authority, or the Secretary of the Interior, it would require an OSM staff attorney 2 hours to review the notice. At a GS 14 step 5 salary, (including a 1.3 multiplier from the ratio between wages and benefits for public sector workers calculated using OSM's Financial and Business Management System which calculates benefits at 1.30 of salary and derived from http://www.opm.gov/oca/12tables/html/gs_h.asp), the cost to the Federal government would be 1 notice x 4 hours x \$59.79 per hour = approximately \$239.

15. This information collection request will increase the approved burden from 20 hours to 45 hours, an adjustment of 25 hours. This adjustment is the result of an increase in the estimated burden per respondent, and is based on the amount of research required prior to preparation of the notice of intent to sue. Therefore, OSM is seeking OMB approval for the following:

20 hours currently approved
+ 25 hours adjustment
45 hours requested

16. There are no plans for publication of this information.

17. Not applicable. The OMB approval information is displayed at 30 CFR 700.10.

18. Not applicable. There are no exemptions to the "*Certification for Paperwork Reduction Act Submissions.*"