

# **The 2013 Supporting Statement for OMB 0596-0081**

## **Disposal of Mineral Materials**

**Terms of Clearance:** None.

**Please Note:** With this submission, the name of this Information Collection Request is changed from *36 CFR Part 228, Subpart C-Disposal of Mineral Materials* to *Disposal of Mineral Materials*..

### **A. Justification**

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

#### Laws, Statutes, and Regulations

- 16 U.S.C. 520
- 16 U.S.C. 521a
- 30 U.S.C 181
- 30 U.S.C. 351
- 30 U.S.C. 601-604, 611-615 (Multiple-Use Mining Act of 1955)
- 36 Stat. 961 (Weeks Act of 1911)
- 74 Stat. 205
- 36 CFR 228, Subpart C

The Secretary of Agriculture has the statutory authority to dispose of petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and other similar materials on lands administered by the Forest Service. That authority derives, in part, from the Multiple-Use Mining Act of 1955 (30 U.S.C. 601-604, 611-615), which amended the Materials Act of 1947 to permit disposal from National Forest System lands reserved from the public domain. The authority to dispose of mineral materials from lands acquired under the authority of the Weeks Act of 1911 (36 Stat. 961) stems from the Act of March 4, 1971 (16 U.S.C. 520). The Secretary of Agriculture was revested with this authority by the Act of June 11, 1960 (74 Stat. 205) and by the Act of September 2, 1958 (16 U.S.C. 521a).

A Privacy Act System of Records - USDA/FS-16, Mineral Lessees and Permittees, covers the information collected. The system covers inter and intra-agency, Secretarial, Presidential, and Congressional correspondence, leases, permits, sale contracts, environmental reports, mineral evaluations operating plans, reclamation plans, and pleadings. Authority for maintenance of the system is 16 U.S.C. 520 and 30 U.S.C 181, 351, and 601.

- 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.**
  - a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**

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Mineral materials operators are required to complete FS-2800-9 Contract for the Sale of Mineral Materials. This form requires the purchaser's name and address, the location and dimensions of the area to be mined, the kind of material that will be mined, the quantity of material to be mined, the sales price of the mined material, the payment schedule, the amount of the bond, and the period of the contract.

Operators requesting approval to develop new sites or to remove large quantities of mineral materials are also required to file, and obtain approval of, an operating plan, which provides detailed information about operations before they begin. There is no required format for the operating plan, but are often handwritten and in some cases engineered drawings are provided. At a minimum, the operating plan must include a map and explanation of the nature of the access, anticipated activity, surface disturbance, and intended reclamation including removal or retention of structures and facilities.

A simple annual statement of production (amount of material removed) is also required of each purchaser or permittee. In some cases, additional information may be required of purchasers or permittees in the form of information indicating qualifications to perform the obligations of the contract or permit, the value of a deposit, notification of completion of operations, and a report of operations. There is no required format for this information, but is usually submitted through a letter to the authorizing Forest Service Officer. This information can also be provided electronically or by facsimile.

- b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.**

Information is collected from operators requesting approval to mine mineral materials on National Forest System lands.

- c. What will this information be used for - provide ALL uses?**

This information is used to minimize environmental impacts, assures financial accountability, and gives the authorizing Forest Service Officer the opportunity to determine whether the proposal is appropriate. The operating plan requirement ensures that needed dialogue takes place and provides the means of documenting planned operations, terms, and conditions that the Forest Service must impose to protect surface resources.

The information is required for the Forest Service to meet various statutory obligations in the course of its management of mineral materials. If these obligations cannot be met, the Agency would have to disallow access to the material by the public in order to avoid violating the law.

- d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the information? If so, what are they?**

Each applicant must complete Form FS-2800-9. The applicant has the option

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to choose whatever method/form is the most convenient for the respondent to use when submitting the required annual production statements and operating plans, as there is not a required or standardized format. This information can be provided as a hard copy, electronically, or by facsimile.

The information collected is retained under Forest Service records schedule 2800 and the various secondary and tertiary sub codes under this file designation.

**e. How frequently will the information be collected?**

For long-term operations, a statement of production is required annually. All other information is collected only once for each operation, unless the operation is modified or extended.

**f. Will the information be shared with any other organizations inside or outside USDA or the government?**

The Forest Service prepares an annual Mineral Materials Production Report that is submitted to the United States Geological Survey and made available to the public on the Forest Service website ([http://www.fs.fed.us/geology/mineral\\_materials.html](http://www.fs.fed.us/geology/mineral_materials.html)). This report is a summary of annual production on National Forest System lands and does not include specific information about individual operations. See item 16 below for additional information.

**g. If this is an ongoing collection, how have the collection requirements changed over time?**

The collection requirements have not changed since the information collection was last approved. With this submission however, the accounting of the burden has been broken into greater detail since the previous submission to align with current OMB guidance.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

The applicant has the option to choose whatever method/form is the most convenient for the respondent to use when submitting the required information. Most choose to submit a paper copy of FS-2800-9 provided by the Forest Service, but the form is available on the Forest Service website ([http://www.fs.fed.us/geology/mineral\\_materials.html](http://www.fs.fed.us/geology/mineral_materials.html)) in fillable-printable format. The applicant and the Forest Service use a facsimile machine and/or e-mail to send copies back and forth when it is not convenient to use the regular mail system or a meeting cannot be attended.

**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.**

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No duplication of information gathering takes place. As the Secretary of Agriculture has the sole authority to dispose of mineral materials from National Forest System lands, no other agency is involved in collecting the required information from the public. Additionally, in sites of recurring uses the Forest Service compiles as much information as possible for programmatic use.

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

The activity of many small businesses takes place in sites of recurring uses. Where recurring disposals of mineral materials either take place or are anticipated, the Agency compiles as much of the needed information as possible in advance for use in a programmatic way, thus sparing individual operators from having to generate the information themselves. These small businesses have their burden reduced directly through the programmatic approach taken at such sites. In addition, on a project-by-project basis, the Authorizing Forest Service Officer can work with the operator to reduce the information requirements through such means as finding locations where fewer surface resource conflicts are likely, thereby reducing information needs.

### **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.**

If the information was not collected, the Forest Service would have no documentation of active mineral materials operations on NFS lands, would not be able to ensure the protection of surface resources, and would not be in compliance with 36 CFR 228, Subpart C. No or less frequent information collection would result in poor land and resource planning and management.

### **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**

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**disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. 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 record keeping, 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 3 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.**

A Federal Register notice seeking comments on this information collection was published on page 24716 of the Federal Register, Volume 78, Number 81, on April 26, 2013. No public comments were received in response to this notice.

The Forest Service maintains a steady dialogue with the various affected individuals and organizations through such means as meeting with trade associations representing the sectors of the public affected by this information collection. Contacts include:

- Mr. Kris Iverson, Project Geologist, Oregon Department of Transportation, 63055 N. Highway 97, Bend OR 97701 (e-mail: [Kris.E.IVERSON@odot.state.or.us](mailto:Kris.E.IVERSON@odot.state.or.us) or telephone: (541) 388-6251;
- Mr. Steve Trussell, Director, Arizona Rock Products Association, 916 W. Adams St., Phoenix, AZ 85007 (e-mail: [steve@arizonarockproducts.org](mailto:steve@arizonarockproducts.org) or telephone: (602) 271-0346).

These contacts did not have any issues with the availability of data, frequency of collection, the clarity of instructions, disclosure, reporting format associated with permitting or record keeping requirements.

Burdens imposed or potentially imposed by the Agency are a routine part of

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these discussions. The Agency consulted with many of the individuals and organizations that complete form FS-2800-9 during development of the form. Many of the same applicants continue to use the form, often on a weekly or monthly basis, without comment.

There have been no reports that the current information collection has caused problems, large or small, for operators.

### **9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.**

The Forest Service does not provide any kind of payment or gift to respondents or grantees regarding information collection requirements of 36 CFR Part 228, Subpart C.

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

A Privacy Act System of Records - USDA/FS-16, Mineral Lessees and Permittees, covers the information collected. The system covers inter and intra-agency, Secretarial, Presidential, and Congressional correspondence, leases, permits, sale contracts, environmental reports, mineral evaluations operating plans, reclamation plans, and pleadings. Authority for maintenance of the system is 16 U.S.C. 520 and 30 U.S.C 181, 351, and 601. Records are stored in a filing cabinet in a locked office.

### **11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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.**

The Forest Service does not request any information of a sensitive nature.

### **12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

Please refer to supplemental document entitled *0596-0081 2013 Burden- Cost Spreadsheet* for estimates of burden, record keeping, and costs to respondent details.

The estimated number of annual respondents of 4,109 was based on the average of the number of responses received during the previous three years (2010, 2011, 2012). The number of respondents varies from year to year based mostly on economic factors in the construction industry, but the previous three year average gives a reasonable estimate of what to expect in the next three years.

The estimate for the time and record keeping burden to respondents is based on conversations with permittees and applicable trade association representatives. The cost per hour was based on wages paid to first line supervisors of

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construction trades and extraction workers (May 2013)  
(<http://www.bls.gov/oes/current/oes471011.htm>).

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates 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.**

There are no capital operation and maintenance costs.

- 14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

**The response to this question covers the actual costs the agency will incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:**

- **Employee labor and materials for developing, printing, storing forms**
- **Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- **Employee travel costs**
- **Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- **Employee labor and materials for collecting the information**
- **Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information**

An information assistant working at the front desk of a Forest Service office receives approximately 85 percent of all applications. It takes 10-15 minutes for the information assistant to process an application.

A geologist or minerals administrator processes the applications for large or complex operations. Estimates are that about 15 percent of all applications are in this category. It can take from 1 day to several weeks to process these applications depending upon the complexity of the site and information needs. On average, each of these applications requires approximately 3 days to process.

Additionally, the National Mineral Materials Program Manager spends approximately 24 hours preparing an annual Mineral Materials Production Report (see item 16 below). Based on the average income of employees in these positions (Table 3 below), the estimated annual cost to the Federal government is \$545,513 or \$97 per application.

Table 3 - Estimate of the annual cost to the Federal government.

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<b>Federal Employee</b>	<b>Estimated Average Income per Hour<sup>1</sup></b>	<b>Estimated Number of Forms Processed</b>	<b>Estimate of Burden Hours per Application</b>	<b>Total Burden Hours</b>	<b>Estimated Cost to the Federal Government</b>
<b>Information Assistant (GS-5)</b>	<b>\$17.00</b>	<b>4,799</b>	<b>0.25</b>	<b>1200</b>	<b>\$20,400</b>
<b>Geologist/Minerals Administrator (GS-9)</b>	<b>\$25.77</b>	<b>847</b>	<b>24</b>	<b>20,328</b>	<b>\$ 523,853</b>
<b>Saleable Minerals Program Leader (GS-14)</b>	<b>\$52.51</b>	<b>---</b>	<b>---</b>	<b>24</b>	<b>\$1,260</b>
<b>Totals</b>	<b>---</b>	<b>5,646</b>	<b>---</b>	<b>21,552</b>	<b>\$545,513</b>

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

Analysis of the actual number of respondents during the previous 3 years has resulted in a slight decrease in the estimated number of respondents from 4,266 to 4,109.

Consultation with respondents have increased the Agency's estimate of the time per response to be slightly increased to account for the time to prepare the annual production report, resulting in a slight increase in the burden estimate from 10,665 to 11,125 hours.

**16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.**

The Forest Service prepares an annual Mineral Materials Production Report for the United States Geological Survey. These reports are available to the public on the Forest Service Minerals and Geology website ([http://www.fs.fed.us/geology/mineral\\_materials.html](http://www.fs.fed.us/geology/mineral_materials.html)). The reports summarize the number of permits issued and the tonnage and value of material removed by the type of permit, mineral material, rock type, and location (district, forest, county, and state).

**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.**

The expiration date of the OMB approval of this information collection will be displayed on all forms associated with this collection.

**18. Explain each exception to the certification statement identified in item 19, "Certification Requirement for Paperwork Reduction Act."**

The agency is able to certify that the collection of information encompassed by this request complies with 5 CFR 1320.

<sup>1</sup> General Schedule hourly pay estimates come from OPM website ([http://archive.opm.gov/oca/11tables/html/RUS\\_h.asp](http://archive.opm.gov/oca/11tables/html/RUS_h.asp))

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