

Supporting Statement A
30 CFR 784 - Underground Mining Permit Applications—
Minimum Requirements for Reclamation and Operation Plans

OMB Control Number 1029-xxx4

Terms of clearance: None.

General Instructions

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

Introduction

The Office of Surface Mining Reclamation and Enforcement (“we” or OSMRE) is submitting this request to revise its information collection authority for 30 CFR part 784. This regulation governs the minimum requirements for preparing Reclamation and Operation Plans to be submitted as part of an underground mining permit application package.

OSMRE is proposing a Stream Protection Rule which will modify the collection requirements in 30 CFR part 784. 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 information collection for this part was previously approved by the Office of Management and Budget (OMB) and assigned clearance number 1029-0039. However, OSMRE is requesting a new information collection number pending approval of the information collection for the final rulemaking.

Specific Instructions

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.***

The Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) requires that individuals who wish to engage in surface coal mining operations must first obtain a permit issued by a state regulatory authority (SRA) in accordance with section 502 of the Act.

Sections 507, 508, 515, and 516 of the Act require the submission of a complete mining and reclamation plan. Each permit application must contain detailed information regarding the land, environmental resources, and the type and method of coal mining techniques to be used and a narrative explaining construction, maintenance and use of facilities. The application must also contain a detailed reclamation plan in the degree of detail necessary to demonstrate that reclamation required by the state or federal program can be accomplished.

30 CFR 784 provides the detailed information required of an underground permit application as enumerated by the Act.

The Stream Protection rule proposed revisions are consistent paragraphs (a) and (d) of section 102 of SMCRA, which provide that the purposes of SMCRA include establishing “a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations” and assuring “that surface coal mining operations are so conducted as to protect the environment.”

We propose revisions consistent with section 508(a)(3) of SMCRA which requires each reclamation plan to include a statement of “the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses.”

We propose to establish detailed content requirements for the CHIA to ensure that the assessment is sufficiently comprehensive to support the finding that the regulatory authority must make under section 510(b)(3) of SMCRA.

We propose revisions consistent with section 515(b)(2) of SMCRA which requires that surface coal mining and reclamation operations “restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood.”

We are proposing revisions that are consistent with section 515(b)(5) of SMCRA, which states that surface coal mining operations must—

remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for

vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation.

We are proposing revisions that are consistent with section 515(b)(6) of SMCRA which states that surface coal mining operations must “restore the topsoil or the best available subsoil which is best able to support vegetation.”

We are proposing revisions to our regulations that will ensure compliance with the provisions of section 515 (b)(15) of SMCRA regarding the use of explosives.

We are proposing revisions that are intended to ensure compliance with section 516 (b) (6) of SMCRA, which requires that underground coal mining and reclamation operations establish “a diverse, effective, and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area...”

The proposed revisions would also implement section 515(b)(20) of SMCRA in part in terms of exceptions to the requirements of section 515(b)(19).

We are proposing revisions consistent with paragraphs (b)(1) and (2) of section 517 of SMCRA that provides authority for the adoption of regulations establishing monitoring requirements for surface coal mining and reclamation operations. Among other things, paragraph (b)(1) provides that “the regulatory authority shall require any permittee to *** install, use, and maintain any necessary monitoring equipment or methods [and] evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe.” Paragraph (b)(2) includes the following additional provisions:

[F]or those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic

balance of water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity.

We propose to revise our regulations to improve consistency with SMCRA and its legislative history and to promote the environmental protection purposes of SMCRA and the fish and wildlife protection and enhancement requirements of section 515(b)(24) and 516(b)(11) of SMCRA, while remaining mindful of the requirement in section 508(a)(3) of SMCRA to consider the comments of the surface owner and state and local governments and agencies.

The proposed regulatory revisions are consistent with section 516 of SMCRA which provides that the Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations ... considering the distinct difference between surface coal mining operations and underground coal mining.

The proposed regulations will also enhance the ability of both the permittee and the regulatory authority to ensure that the water supply replacement requirements of 30 CFR 817.40 and section 720 of SMCRA are properly implemented.

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.]***

Each underground permit applicant must submit a detailed application with a reclamation and operation plan. Detailed information is required to enable the regulatory authority to determine whether the proposed mining operation will be conducted in compliance with the performance standards contained in Subchapter K of these regulations and to make the findings required to issue a permit.

This information is necessary to enable the regulatory authority to evaluate the cumulative impact of the proposed operations on the resources of the area, including the hydrologic balance, land, vegetation, and fish and wildlife. The required information includes a detailed timetable for the completion of each major step in the reclamation plan and a detailed estimate of the cost of reclamation together with supporting calculations, and is necessary for the regulatory authority to determine the amount of the bond.

784.12 of the proposed regulations would require a plan for backfilling surface excavations, compacting the backfill, and grading the disturbed area, with contour maps, models, or cross-sections that show the anticipated final surface configuration of the proposed permit area, including drainage patterns, using the best technology currently available.

In addition this section of the proposed regulations would require a detailed soil handling and revegetation plan. Such plans would be required to provide technical justifications for any proposed substitutes or supplements to the existing premining soil, and use a statistically valid methodology to sample premining soil distribution. In addition revegetation plans that primarily include the planting of trees and shrubs would be required to be prepared and certified by a professional forester or ecologist. Soils information would ensure that the appropriate best available materials are salvaged, stored, and redistribute in a fashion that best ensures the successful reestablishment of vegetation in accordance with the approved postmining land use. Utilization of professionals in development of revegetation plans would ensure that appropriate

planning is included to enhance the recovery of forest cover consistent with the approved postmining land use.

This section also proposes to require a Stream restoration plan. If an operator proposes to mine through a perennial or intermittent stream, the reclamation plan must explain in detail how and when you will restore both the form and the ecological function of the stream segment, either in its original location or as a permanent stream-channel diversion.

784.16 details the requirements for fish and wildlife enhancement plans and would include provisions for mandatory enhancement for any long-term loss of significant forest cover and native plant communities or loss of any intermittent or perennial stream segments. Such enhancement measures would need to be commensurate with the magnitude of fish and wildlife resources lost and could be implemented within the same watershed as the proposed operation or in the nearest adjacent watershed where enhancement opportunities exist. These provisions would offset adverse impacts to fish and wildlife that are not avoidable from the proposed mining operations.

We propose to add a provision that would expressly require that the fish and wildlife protection and enhancement plan contain a description of any species-specific protection and enhancement plans developed under the Endangered Species Act, which would include any plans developed in accordance with the existing formal section 7 Endangered Species Act consultation pertaining to the approval and conduct of surface coal mining and reclamation operations under a state or federal SMCRA regulatory program. The proposed rule would also require that the permit applicant quantify the anticipated incidental take of any species listed as threatened or endangered under the Endangered Species Act and explain the effect of that level of take on the species. In the event that take cannot be quantified, the proposed rule would require use of a biologically relevant surrogate measure of take.

In addition this section would require the regulatory authority to document the disposition of any comments submitted by the US Fish and Wildlife Service regarding any protection and enhancement plans of issue related to the protection of threatened and endangered species. This would ensure that the US FWS comments are carefully considered in the

development and implementation of any protection and enhancement plans for the proposed operations.

Another measure listed in the proposed rule is a requirement for periodic evaluation of the impacts of the operation on fish, wildlife, and related environmental values in the permit and adjacent areas. This would require that the permittee use that information to modify operations or take other action if necessary to avoid or minimize unforeseen adverse impacts on fish, wildlife, and related environmental values.

784.19 would revise the required baseline information on hydrology, geology and aquatic biology. The information collected by the applicant and submitted as part of the operations plan would need to be sufficient to describe the seasonal variations of surface and groundwater (including mine pools) quality and quantity. Stream assessments would need to be sufficient to describe the biological condition of all streams within the proposed permit and adjacent area, including a description of the riparian corridor adjacent to each stream. This data would be used to establish baseline conditions for the hydrologic balance and the baseline biological condition of streams in order to prescribe adequate protective and restoration measures as appropriate.

The regulatory authority would be required to corroborate the baseline data submitted as a part of the permit application. This would ensure that baseline conditions are established using appropriate data collection protocols and that the baseline conditions would be properly characterized.

784.20 addresses the applicants determination of the probable hydrologic consequences (PHC) of the proposed operation on the quantity and quality of the surface and groundwater resources, and would be revised to include the biological condition of intermittent and perennial streams, within the proposed permit and adjacent areas, including any potential adverse impacts from subsidence to such streams.

If the PHC indicated that adverse impacts could occur to such resources then regulatory authority would need to require the submission of supplemental information adequate to fully assess such adverse impacts and the applicant to plan the mining and reclamation operations in a manner that addresses the potential adverse impacts.

In addition the regulatory authority would be required to review any revision of a permit to determine if an updated PHC is needed to fully address any potential adverse impacts to the hydrologic balance or biological condition of streams resulting from the proposed revisions.

In addition we propose to expand certain findings related to the PHC concerning the potential interception or creation of aquifers in spoil and mine voids; the impact the proposed operation would have on specific water quality parameters; the impact the proposed operation would have on precipitation runoff patterns including seasonal variations in streamflow and the magnitude and frequency of peak flows in perennial, intermittent, and ephemeral streams within the proposed permit and adjacent areas; the biological condition of those streams; and the impact of any diversion of surface or subsurface flows to underground mine workings or any changes in watershed size as a result of the postmining surface configuration would have on the availability of surface water and groundwater.

784.21 would require the regulatory authority to conduct a cumulative hydrologic impact assessment (CHIA) of the proposed operation and all past, present or anticipated mining within the cumulative impact area. The CHIA prepared by the RA may be based on available data provided by state or federal agencies or by the applicant in combination with other available data. The revised rule would require the RA to establish within the CHIA criteria necessary to prevent material damage, as that term is defined in the proposed regulations, and the RA would need to make a specific finding to that effect. The RA would be required to specifically determine that the proposed operation would not cause material damage to the biological condition of receiving streams, would not result in changes in peak flows that cause flooding or adversely impact the biological condition of receiving streams, and that surface and groundwater uses outside the permit area would be protected.

The proposed rule would establish detailed content requirements for the CHIA to ensure that the assessment is sufficiently comprehensive and scientifically sound to support the finding that the regulatory authority must make under section 510(b)(3) of SMCRA regarding whether the operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

The RA would also be required to review the CHIA at mid-term permit review or permit renewal to determine if the original determinations and findings are accurate, of if they need to be modified to address any additional adverse impacts and prevent material damage.

784.22 addresses the requirements for the hydrologic reclamation plan and alternative water supply sources. The applicant must develop a hydrologic reclamation plan that specifically addresses the prevention or remediation of any adverse impact identified in the PHC. In addition for operations that may adversely impact any water source used for domestic, drinking or residential purposes the proposed rule would require the applicant to identify other water sources that are both available and feasible to develop as a suitable replacement. In the event no suitable replacement sources are available the applicant would be required to revise the proposed mining and reclamation plan so as to prevent diminution, contamination of interruption of the existing water source. The applicant would also be required to provide for the permanent replacement of an alternate water supply in the operations plan prior to any adverse impact of the existing supply and to provide a plan for addressing any unanticipated losses of water supplies on a temporary and permanent basis.

784.23 outlines the minimum requirements for surface and groundwater monitoring plans. Such plans would be required to include adequate locations and parameters to address any potential adverse impact to the hydrologic balance as identified in the PHC, including the biological condition of intermittent and perennial streams, , and effluent limitations as appropriate. These changes are intended to ensure that the monitoring plans are designed to provide comprehensive monitoring data to enable both the permittee and the regulatory authority to identify any adverse impacts on surface water or groundwater in time to take corrective action to prevent material damage to the hydrologic balance outside the permit area. Subsequent to the review of an applicants' PHC and the preparation of a CHIA, the RA could require that monitoring plans be revised to ensure that any potential adverse impacts are prevented.

784.24 addresses the postmining land use plan, and requires that the applicant demonstrate certain provisions in order for the RA to approve an alternative postmining

land use. The applicant would be required to demonstrate that the proposed higher or better use is likely to be achieved subsequent to mining and reclamation, and that such use would not result in an adverse impact to the biological condition of streams, would not preclude any other existing or approved surface or groundwater uses, nor result in increased flooding or cause material damage to the hydrologic balance outside the permit area. In addition the postmining land use plan would provide for the restoration of native trees and shrubs for areas that were predominantly forest cover prior to submission of the application.

The regulatory authority could approve the proposed change in land use after consultation with the landowner or other appropriate land management agency with jurisdiction over the area, and upon a determination that the applicant has made the demonstration required for such a change.

If the applicant were to propose to retain mining related structures on the reclaimed area in support of the postmining land use the applicant would be required to provide sufficient bond to cover the costs of removing such structures in the event the structure is not in use at the end of the revegetation responsibility period and the applicant failed to remove the structure.

In 784.25 we propose to require that the general plan for each proposed siltation structure, impoundment, or refuse pile contain a report describing the results of a geotechnical investigation of the potential effect on the structure if subsurface strata should subside as a result of past, current, or future underground mining operations beneath or within the proposed permit and adjacent areas. In addition we propose to require that the general plan for each impoundment include an analysis of the potential for the impoundment to drain into subjacent underground mine workings, together with an analysis of the impacts of such drainage.

784.28 addresses information and demonstrations that are required when an applicant proposes to conduct operations adjacent to (within 100 feet), within, or through an intermittent or perennial stream. Applicants proposing to mine near a stream would be required to demonstrate that there would be no adverse impact to the ecological function of the stream and to provide a plan for the establishment of a 100 foot forested buffer adjacent to the stream subsequent to completion of mining if the stream was located in an

area of forest cover prior to mining. If an applicant were to propose to mine through an intermittent or perennial stream then the plan would be required to demonstrate that both the form and ecological function of the stream could be substantially restored to its premining condition, including the reestablishment of a forested riparian corridor under the conditions previously mentioned. In addition the proposed rule would require that the permit application include a separate bond calculation for the costs of restoring the ecological function of the stream. It also would require that, before permit issuance, the permit applicant post a surety bond, a collateral bond, or a combination of surety and collateral bonds to cover that cost.

The proposed rule would require that the regulatory authority establish, in cooperation with the Clean Water Act authority, objective standards for determining when the ecological function of a restored or permanently-diverted perennial or intermittent stream has been restored.

If the applicant proposes to place fill into an intermittent or perennial stream the plan would require a demonstration that there is no reasonable alternative to the proposed location of the fill, that the volume of the proposed fill would be minimized to the extent possible, that the area of placement would represent the least adverse impact on fish and wildlife and related environmental values. In addition any adverse impact on fish and wildlife would need to be fully offset by the applicant's fish and wildlife enhancement plan. Excess spoil fills would be required to be planted in native forest species if the area was in forest cover prior to the submission of the application. Finally the applicant would need to demonstrate that the excess spoil fill or coal mine waste disposal facility has been designed in a manner that will not cause or contribute to a violation of water quality standards or result in the formation of toxic mine drainage.

The regulatory authority could approve mining activities in or near streams only upon finding that the applicant has satisfied all of the required demonstrations in accordance with this rule.

784.29 would require the submission of a surface water runoff control plan that demonstrates how the applicant would ensure that surface water runoff would not exceed premining discharge rates during and after mining and reclamation for the equivalent precipitation event. The plan would be required to include an inspection, monitoring, and

reporting program that would evaluate the actual effectiveness of the runoff control plan so that modifications to the plan could be made if so indicated by the monitoring data. The plan would also require incorporation of the design and location of any necessary runoff control structures needed to ensure adequate runoff control during mining and reclamation.

Section 784.35 revises our regulations to minimize the creation of excess spoil and to ensure that excess spoil fills and coal mine waste disposal facilities are located and designed to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values to the extent possible, using the best technology currently available,

The proposed rule would provide further authority for the policies in place in Kentucky, Tennessee, Virginia, and West Virginia regarding disposal of excess spoil.

Section 784.37 would require that the applicant explain why any proposed fords, alterations or relocations of natural stream channels, or low-water crossings are necessary for the construction of roads and how they comply with applicable stream protection requirements.

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 784 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 for 30 CFR 784 is time-sensitive and unique to each site. Duplication is minimal to nonexistent. OSMRE is the only federal agency charged with implementation of sections 507 and 508 of the Surface Mining Control and Reclamation Act (the Act or SMCRA).

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), 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 required in 30 CFR 784 provides the basis for SMCRA permitting decisions by SRA's. Information required for this part is submitted once as a permit application to conduct underground coal mining.

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. Generally, 3 copies are submitted by permit applicants to the SRA's. In states that promote electronic submissions, 1 to 3 CD's are submitted by applicants. In some states, applicants are encouraged to complete the application using the state's ftp website where drop-down menus and pre-populated hydrologic and geologic data are employed for convenience.

OSMRE continues to strongly urge SRA's to request that permit applications be submitted through electronic means to reduce the number of copies and ease of review.

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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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.

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.

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

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

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

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

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. 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.

a. Burden Hour Estimates for Respondents

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

30 CFR 784 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden per Response	Total Annual Burden Hours	Change in Burden due to Rule
784.11 General description of proposed operations	Operators	45	4	180	0
	State regulatory authorities	44	3	132	0
784.12(a)-(g), (i)-(m) Reclamation plan	Operators	45	6	270	0
	State regulatory authorities	44	9	396	176

30 CFR 784 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden per Response	Total Annual Burden Hours	Change in Burden due to Rule
784.12 (h) Stream restoration plan	Operators	1	2	2	0
	State regulatory authorities	1	6	6	0
784.13 Additional maps and plans	Operators	45	40	1,800	0
	State regulatory authorities	44	7.5	330	0
784.14 Requirements for existing structures	Operators	6	6	36	0
	State regulatory authorities	5	2.25	11.25	0
784.16 Fish and wildlife protection and enhancement plan	Operators	45	8	360	0
	State regulatory authorities	44	4	176	0
784.19 Baseline information on hydrology, geology, aquatic biology	Operators	45	60	2,700	1,620
	State regulatory authorities	44	14	616	352
784.20 Probable hydrologic consequences of mining and reclamation	Operators	45	4	180	0
	State regulatory authorities	44	8	352	0
784.21	Operators	45	2	90	0

30 CFR 784 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden per Response	Total Annual Burden Hours	Change in Burden due to Rule
Cumulative hydrologic impact assessment	State regulatory authorities	44	10	440	352
784.22	Operators	45	4	180	90
Hydrologic reclamation plan and alternative water sources	State regulatory authorities	44	4.5	198	22
784.23	Operators	45	4	180	90
Monitoring plans and related requirements	State regulatory authorities	44	8	352	176
784.24	Operators	45	20	900	90
Postmining land use plan	State regulatory authorities	44	4	176	22
784.25	Operators	45	16	720	0
Siltation structures, impoundments, and refuse piles	State regulatory authorities	44	10	440	0
784.26	Operators	21	6	126	0
Return of coal processing waste to abandoned underground workings	State regulatory authorities	20	4	80	0

30 CFR 784 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden per Response	Total Annual Burden Hours	Change in Burden due to Rule
784.28 Surface activities in, through, or adjacent to perennial or intermittent streams	Operators	11	10	110	110
	State regulatory authorities	11	6	66	66
784.29 Surface-water runoff control plan	Operators	45	26	1,170	450
	State regulatory authorities	44	13	572	352
784.30 Subsidence control plan	Operators	45	12	540	0
	State regulatory authorities	44	4	176	0
784.31 Protection of publicly owned parks and historic places	Operators	1	6	6	0
	State regulatory authorities	1	5	5	0
784.33 Relocation or use of public roads	Operators	18	8	144	0
	State regulatory authorities	17	2	34	0
784.35 Disposal of excess spoil	Operators	34	9	306	0
	State regulatory authorities	33	12	396	0
784.37 Road systems	Operators	45	24	1,080	180
	State	44	5	220	22

30 CFR 784 Section	Type of Respondent	Average No. of Annual Responses	Hour Burden per Response	Total Annual Burden Hours	Change in Burden due to Rule
	regulatory authorities				
784.38 Support facilities	Operators	45	8	360	0
	State regulatory authorities	44	2	88	0
Total Hour Burden by Respondent	Operators			11,440	2,630
	State regulatory authorities			5,262	1,541
Total Hour Burden				16,702	4,170

b. Estimated Wage Cost to Respondents

OSMRE has estimated wage costs for respondents: industry and state regulatory employees. OSMRE has derived these wages from the Bureau of Labor Statistics (BLS) websites at (http://www.bls.gov/oes/current/naics4_212100.htm for industry wages, and http://www.bls.gov/oes/current/naics4_999200.htm for state employees (both updated May 2013). 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	Hourly Rate	Percent of	Weighted
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	Hour (\$)	with Benefits (x 1.4) (\$)	time spent on collection	Average per hour
Administrative Support	18.79	26.31	10%	\$2.63
Environmental Engineer	39.46	55.24	40%	\$22.10
Engineer (General)	41.99	58.79	40%	\$23.52
Operations Manager	58.31	81.63	10%	\$8.16
Total			100%	0

Therefore, the estimated total annual wage cost for industry respondents including implementation of provisions of the Stream Protection Rule for part 784 is \$56.41per hour x 11,440 hours = \$645,330.

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	44.47	66.71	10%	\$6.67

Manager				
Total			100%	0

Therefore, the estimated total annual wage cost for state respondents when implementing the Stream Protection Rule for part 784 is \$49.79 per hour x 5,262 hours = \$261,995.

Therefore, the estimated total annual additional wage cost for all respondents is \$907,325.

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. Capital and Start-up Costs

Non-labor capital and start-up costs for each respondent are displayed in the following table. These costs are associated with permit application costs for items such as equipment, digital modeling, engineering certifications, laboratory analyzes, and other data collection activities based on the increased regulatory changes due to the Stream Protection proposed rule.

NON-WAGE COST TO INDUSTRY RESPONDENTS FOR 30 CFR PART 784

Section	Number of Respondents	Cost Per Respondent (\$)	Total Non-Wage Cost (\$)	Change in Burden due to Rule (\$)
784.11	45	100	4,500	0
784.12	45	500	22,500	0
784.12(h)	1	0	0	0
784.13	45	100	4,500	0
784.14	6	100	600	0
784.16	45	200	9,000	0
784.19	45	19,670	885,150	885,150
784.20	45	100	4,500	0
784.21	45	100	4,500	0
784.22	45	3,000	135,000	22,500
784.23	45	100	4,500	0
784.24	45	100	4,500	0
784.25	45	100	4,500	0
784.26	21	100	2,100	0
784.28	11	0	0	0
784.29	45	1,050	47,250	45,000
784.30	45	100	4,500	0
784.31	1	550	550	0
784.33	18	55	990	0
784.35	34	500	17,000	0
784.37	45	300	13,500	11,250

784.38	45	25	1,125	0
Total			0	0

b. Operation, Maintenance and Services

Not applicable. Costs for this part are incurred prior to the commencement of mining.

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 (in 12 States)	FEDERAL PROGRAM			TOTAL HOURS
		Responses	Hour Burden	Total Burden Hours	
784.11	24 (2 hrs/state)	1	3	3	27
784.12	48 (4 hrs/state)	1	9	9	57
784.12(h)	48 (4 hrs/state)	0	0	0	48
784.13	24 (2 hrs/state)	1	7	7	31
784.14	12 (1 hr/state)	1	2	2	14
784.16	48 (4 hrs/state)	1	4	4	52
784.19	48 (4 hrs/state)	1	8	8	56
784.20	24 (2 hrs/state)	1	4	4	28
784.21	96	1	10	10	106

	(8 hrs/ state)				
784.22	12 (1 hr/state)	1	4	4	16
784.23	12 (1 hr/state)	1	8	8	20
784.24	12 (1 hr/state)	1	4	4	16
784.25	48 (4 hrs/state)	1	10	10	58
784.26	12 (1 hr/state)	1	4	4	16
784.28	72 (6 hrs/state)	0	0	0	72
784.29	12 (1 hr/state)	1	13	13	25
784.31	24 (2 hr/state)	0	0	0	24
784.33	12 (1 hr/state)	1	2	2	14
784.35	48 (4 hrs/state)	1	12	12	60
784.37	24 (2 hrs/state)	1	5	5	29
784.38	12	1	2	2	14

	(1 hr/state)				
TOTALS	672			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.

Oversight. Due to the promulgation of the Stream Protection rule, we anticipate conducting an oversight review of state compliance with part 780 in 12 of the 24 states. At \$65 per hour x 672 hours to conduct oversight = \$43,680.

Federal Programs. Where OSMRE is the regulatory authority, we estimate expending 111 hours in reviewing permit applications. Therefore, \$65 per hour x 111 hours = \$7,215.

The total cost to the federal government, including the burden associated with the Stream Protection rule is \$50,895.

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

This information collection request will increase the burden due to the proposed Stream Protection Rule. This estimate does not include provisions of the proposed rule where we are reorganizing the regulations for clarity. The burden change is demonstrated below:

14,906 hours currently approved

+ 3,175 hours due to adjustments
+ 4,170 hours as program changes
22,251 hours requested

This information collection request will increase non-wage burden costs by \$963,900 due to program changes under the Stream Protection rule, to a new total of \$1,170,765.

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*.