

SUPPORTING STATEMENT A

30 CFR 822 – Special Permanent Program Performance Standards – Operations in Alluvial Valley Floors

OMB Control Number 1029-0049

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

A. Justification

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

Sections 510(b)(5) and 515(b)(10)(F) of the Surface Mining Control and Reclamation Act of 1977 (the Act) protect alluvial valley floors (AVF's) from the adverse effects of surface coal mining operations west of the 100th meridian. Section 822.13 requires the permittee to install, maintain, and operate a monitoring system in order to provide specific protection for alluvial valley floors. This information is necessary to determine whether the unique hydrologic conditions of AVF's are protected according to the Act. This collection of information was previously approved by the Office of Management and Budget (OMB) and given control number 1029-0049.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.*

Information collected and submitted by the permittee will be used by the regulatory authority to make the following determinations:

- The surface coal mining operation would "not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or subirrigated;"

- Mining would not materially damage the quantity or quality of water systems that supply AVF's; and
- Mining operations would preserve throughout the mining and reclamation process the essential hydrologic functions of AVF's.

Without this information the regulatory authority could not monitor and ensure the protection of alluvial valley floors from adverse effects of surface coal mining.

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.*

This information is unique to each respondent. Respondents are coal mining operators who furnish hydrologic data to ensure protection of AVF's, and State regulatory authorities who review the submitted data. Coal operators may supply this information electronically. Of the two states contacted, one reported that most companies submit only hard copy at this time to them, while one major company submits it both by hard copy and electronically. The other state reported that the majority of the data was submitted electronically; therefore, it is believed that nationally, approximately 3/4 of respondents submit data electronically.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

No similar information is collected by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or by other Federal agencies. Also, circumstances vary with each respondent who provides hydrologic data, and each monitoring system has specific endemic characteristics. Therefore, there is no available information that can be used in lieu of that supplied on each respondent.

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

The information requested is the minimum needed to ensure the protection to AVF's.

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.*

The data is collected on an annual basis. If it were not collected or collected less

frequently, OSMRE and the State regulatory authorities would have insufficient information to properly monitor the impacts of mining on AVF's.

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.*

This information collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 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 total of 33 AVF's are currently permitted across only these three states -- Colorado

(19), Wyoming (12), and Utah (2). Two respondents and two regulatory authorities were contacted in September 2016 concerning the current reporting burden. The estimated burden hours reflect their annual estimates.

Contacted coal operators were:

Twentymile Coal Company
Twentymile Mine
Oak Creek, CO

Peabody Energy
Caballo, North Antelope Rochelle, Rawhide, & School Creek Mines
Campbell County, WY

Contacted regulatory authorities were:

Director, Mined Land Reclamation - Coal
Division of Reclamation, Mining and Safety
Colorado Department of Natural Resources
Denver, CO 80203

Natural Resources Program Principle
Land Quality Division
Wyoming Department of Environmental Quality
Cheyenne, Wyoming 82002

Peabody Energy provided burden estimates for four of the Wyoming mines with alluvial valley fills that they operate in the Powder River basin. Twentymile Coal Company provided information for their Twentymile Mine. Both industry respondents who have handled AVF problem(s) for their firms provided us with burden estimates, but did not indicate problems as to availability of data, the frequency of collection, and the clarity of instructions or the data elements reported. The burden estimates provided by these respondents have been incorporated into the burden hours in item 12.

The regulatory authorities were contacted for information on AVF's monitoring and submission of the monitoring data associated with current permits. They provided burden estimates, but had no concerns regarding the availability of data, the frequency of collection, and the clarity of instructions or the data elements reported.

On July 6, 2016, OSMRE published in the Federal Register (81 FR 44043) 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. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

Not applicable. Payments or gifts are not provided to respondents.

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

No confidential information is solicited.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

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.*

Reporting and Reviewing Burden

a. Estimate of Burden to Respondents

1. Based on current experience and discussions with OSMRE regional offices, it is estimated that 33 respondents will be submitting monitoring data on AVF's annually (there are no AVF's in Federal program states or on Indian Lands administered by OSMRE under the Federal program). The respondents identified in item 8 above stated from their past experiences that the time annually spent to

complete the needed information concerning AVF's at a mine permit can range from 3 hours to 90 hours. The 3-hour annual monitoring is unusual and could be for a permit where the AVF is undisturbed and outside the permit boundary. The higher monitoring estimates could be for a permit with several AVF's within the permit boundary and with one or more being reclaimed. We are using a nationwide average of 80 hours to be annually spent to complete the needed information concerning AVF's at a mine permit.

33 respondents x 1 report x 80 hours = 2,640 hours.

2. Based on discussions with regulatory authorities identified in item 8, it is estimated that regulatory authorities will spend 10 hours annually to review each of the 33 respondent's monitoring data. The regulatory authorities noted that a new application that has an AVF determination and review, the initial permit review is a much more involved process that could add 80 hours just for the AVF characterization. That review would be conducted as part of the permit review process approved under a separate information collection control number.

33 respondents x 1 report x 10 hours = 330 hours.

Total burden for all respondents is 2,970 hours.

b. Estimated Wage Cost to Respondents

1. OSMRE estimates that a mining industry employee who submits monitoring data on alluvial valley floors would have the equivalent salary of a hydrologist at \$39.89 per hour based on Bureau of Labor Statistics (BLS) estimates found at <http://www.bls.gov/oes/current/oes170000.htm> . OSMRE includes a benefits cost which is calculated using a 1.4 multiplier times respondent wage costs (derived from the BLS news release dated SEPTEMBER 8, 2016, USDL-16-1808 for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION-JUNE 2016 at <http://www.bls.gov/news.release/pdf/ecec.pdf>). Thus, respondent salary and benefit cost would be \$55.85 per hour (\$39.89 x 1.4)/hour). The cost to each mining operation would be \$4,468 (80 hours x 1 report x \$55.85). The estimated wage cost to all respondents would be \$147,444 (33 respondents x 1 report x 80 hours x \$55.85/hour).

2. OSMRE estimates that States will be responsible for monitoring approximately 33 permits annually. A State employee who reviews each respondent's monitoring data submission would have the equivalent salary of an environmental specialist at \$29.87 per hour based on Bureau of Labor Statistics (BLS) estimates found at <http://www.bls.gov/oes/current/oes192041.htm> . OSMRE includes a benefits cost which is calculated using a 1.6 multiplier times respondent wage costs (derived from the BLS news release referenced above). Thus, respondent salary and benefit costs would be \$47.79 per hour (\$29.87 x 1.6/hour). The cost

to States to review each AVF monitoring data report would be \$478 (10 hours x 1 report x \$ 47.79). The estimated wage costs to review all respondent's monitoring data would be \$15,771 (33 respondents x 1 report x 10 hours x \$47.79/hour).

The total wage cost to all operators and regulatory authorities is \$163,215.

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.*

Total Annual Non-wage Cost Burdens to Respondents

a. Annualized Capital and Start-Up Costs

There are no capital or start-up costs to complete this information collection beyond that incurred by normal business activities.

b. Operation and Maintenance Costs

There are no distinct operations or maintenance costs associated with the information collection requirements for section 822.13.

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.*

Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSMRE does not anticipate significant oversight review of State compliance with Part 822 in the absence of indication of problems. OSMRE estimates that it will conduct an oversight review in one State per year. OSMRE estimates that the oversight review will require 8 hours.

It will take an OSMRE regulatory program specialist (GS-12/05 - \$38.69/hour) a total of 8 hours to review the information. Wage estimates for OSMRE employees discussed in this section are derived from the Office of Personnel Management’s website at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/16Tables/html/RUS.aspx>. Labor cost is estimated at \$61.90 per hour, which includes benefits calculated using a 1.6 multiplier times the reviewer’s wage cost (derived using BLS news release USDL-16-1808). Thus, the estimated annual cost for salary and benefits to the Federal Government is \$495 (1 respondent x 1 report x 8 hours x \$61.90 (\$38.69 x 1.6)/hour).

Federal Programs. OSMRE is not the regulatory authority in any state that contains AVF’s. Therefore, there is no Federal burden under Federal Programs.

Therefore, the Federal burden for Part 822 is \$495.

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

The previously approved burden estimate for 30 CFR Part 822 is 2,750 hours. This information collection request increases the burden estimate to 2,970 hours. The resultant 220-hour increase is due primarily to a corrected and increased number of permits (for both active and inactive permits, as per Table 3 of the EY 2015 Annual Evaluation Report) that would be required to submit annual monitoring data. There is also a reduction in the estimated time required for permittees to collect and submit the required monitoring data. The burden will change as follows:

There are currently 2,750 hours approved by OMB.

| | |
|---|-------------------------------------|
| | 2,750 hours currently approved |
| + | <u>220</u> hours due to adjustments |
| | 2,970 hours requested |

16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

There are no plans for publication of this information.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

OSMRE is not seeking a waiver from the requirement to display the expiration date for OMB approval of the information collection.

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

There is no exception to the certification.