

Supporting Statement A
30 CFR 732 - Procedures and Criteria for Approval or Disapproval of State Program Submissions

OMB Control Number 1029-0024

Terms of Clearance: None

General Instructions

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

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to request an extension of the current Office of Management and Budget (OMB) approval to collect information under 30 CFR Part 732, OMB control number 1029-0024. The regulations govern the submission of information regarding the effective implementation of State programs regulating surface coal mining and reclamation operations. The information collection requirements contained in 30 CFR Part 732 are needed to meet the requirements of the Surface Mining Control and Reclamation Act of 1977 (the Act).

The information collection requirements for this part are contained in 30 CFR 732.16(a), 30 CFR 732.17(b), and 732.17(f) and (g). The justification statements that follow discuss each section separately.

Specific Instructions

Justification

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

Section 732.16(a) authorizes the Director to establish, as necessary, terms and conditions for the operation of a State program including establishment of a system for the State to regularly report to OSMRE on information collected by the State during the administration of its program. Authority for this regulation comes from section 201(c) and 706 of the Act.

Section 732.17(b) requires States operating under approved programs to notify the Director, in writing, of any significant events that affect implementation, administration or enforcement of a State program. This notification is necessary because States were given approval to regulate surface coal mining and reclamation operations within the State based on the facts presented at the time approval was requested. If these facts change or events occur that might impair the State from enforcing the requirements of the Act contained in its approved program, then OSMRE must be notified. The authority for section 732.17(b) is found in sections 201(c)(1), 201(c)(2) and 503 of the Act.

Sections 732.17(f) and (g) require States operating under approved programs to submit to the Director, as amendments, any proposed changes to laws and regulations that make up the State program. The authority for these sections is found in sections 201(c)(1), 201(c)(2) and 503 of the Act.

- 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.***

The reporting requirements contained in 30 CFR 732.16(a) are necessary for the Director to fulfill the responsibilities outlined in Section 201(c) of the Act to administer the program for controlling surface coal mining operations and to make those investigations and inspections necessary to ensure compliance with the Act. The information submitted by the State is used by OSMRE in evaluating whether the State is meeting the provisions of the approved State program. Each State has already generated the data for its own programmatic use. The State only transmits this data to OSMRE for use in oversight. In addition, the information collected from the State is used by OSMRE in preparing the annual report required by section 706 of the Act and other programmatic information to ensure the effective administration and operation of the State program. If the information were not collected OSMRE would be unable to determine if the State regulatory authority(SRA's) were properly enforcing the requirements of the Act, would not have the data necessary to prepare the annual report required by section 706 and ensure

program implementation of the State program.

The notification and information submitted by a State pursuant to section 732.17(b) is used by the Director to determine whether a State is still capable of enforcing its regulatory program as approved by the Secretary. The Director must review the information submitted by the State within 30 days. The Director may determine that the event does not have a significant impact on the approved program and therefore no action is required by the State. On the other hand, the Director may determine that in view of the changes that have occurred, it is necessary to either require a State program amendment or implement a Federal program for the State. Subparagraphs (1) through (7) list the minimal events which OSMRE believes would require notification by the State because their occurrence could impair the State's ability to enforce the State program approved by the Secretary.

If this information were not collected, OSMRE would not be able to determine if the State were still capable of regulating surface coal mining and reclamation operations in accordance with the State program approved by the Secretary.

State program amendments submitted pursuant to section 732.17(f) and (g) are reviewed by the Director, as well as published in the Federal Register. Before approving amendments, the Director is required to publish a notice of receipt in the Federal Register. The notice of receipt also outlines the public comment period and other pertinent information. Upon the close of the comment period, the Director considers all relevant information to determine if the amendment should be approved and prepares a final rule that notifies the State and the public of the approval.

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

The information for section 732.16(a) is unique to each respondent. Respondents are State regulatory authorities that submit information to OSMRE to be evaluated for compliance with the approved State program. OSMRE prepares the format for each table and electronically sends them to the States. The SRAs complete the tables and electronically return them to OSMRE. Paper form is rarely used.

The information for section 732.17(b) is unique to each respondent. Respondents are State regulatory authorities that submit a written notification to the Director, OSMRE, of any significant event that affects the implementation, administration or enforcement of the State program. State regulatory authorities prepare the letter on computer and send or hand-carry to OSMRE. Due to the infrequent nature of this collection it is not practical to require States to supply the information by computer, or for OSMRE to automate its

processing of responses.

The information for section 732.17(f) and (g) is unique to each respondent. Respondents are State regulatory authorities that submit information to OSMRE to be evaluated for compliance with the approved State program. Information submitted includes:

- if the revisions significantly differ from the corresponding Federal provision, the rationale for the changes, any technical justification for the changes, and their legal effect;
- a precise identification of existing language being deleted and new language being added, by means of underlining, bracketing or striking out;
- a legal opinion from the attorney general of the State or Chief legal officer of the State regulatory authority.

Most of this information is submitted in paper form.

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 other Federal agency collects this information. Responses are specific to requirements found in the Act.

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

There are no small organizations involved in this collection. Respondents are the 24 State and 4 Tribal regulatory authorities that oversee the coal industry.

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 collected for 732.16(a) is collected annually to provide OSMRE with sufficient oversight capabilities. If the information were collected less frequently, OSMRE would not be able to properly monitor the State's enforcement of the Act.

Information collected for section 732.17(b) is collected once when a significant event affecting an approved State program occurs. The frequency of collection can therefore not be reduced.

Information collected for 732.17(f) and (g) occurs only when a State submits documents to amend its rules. The frequency of collection can therefore not be reduced.

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.***

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

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

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

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The proposed rules were sent to State officials and made available to the public. Proposed rules were published in the Federal Register on September 18, 1978 (43 FR

41662), with a 40-day comment period. The final rules were promulgated on March 13, 1979 (44 FR 14902).

In January 2017, the State regulatory programs were consulted regarding their views on the burden imposed by this information collection effort. The persons contacted were:

Montana Department of Environmental Quality
1520 E. Sixth Ave.
Helena, MT 59620

Alaska Department of Natural Resources
550 West 7th Ave.
Anchorage, AK 99501

When asked about OSMRE's communication with the State about the instructions given and the assistance provided for pre-submission of amendments, Montana stated that the guidance from OSMRE was an invaluable tool and helps to accelerate the process. The State also expressed that they would like some training and guidance on the entire amendment process; with turnover at the State and OSMRE it would be nice to have refreshers and updated resources available.

When speaking with the Alaska representative they expressed the State's disappointment in the archaic process for submitting state program amendments and the lack of guidance and training provided to the State. Alaska would like to see a webinar and a space devoted for online resources made available to make the process smoother and efficient.

In response to the States request for training and online resources, we informed them that we would post documents on our website as examples. We were developing new guidance internally, and would develop supporting documents for the States to use when preparing State amendments.

On January 11, 2017, OSMRE published in the Federal Register (82 FR 3356) 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.*

OSMRE does not provide payments or gifts to respondents beyond grant money authorized by Congress.

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. Instead, this cost should be included under “Annual Cost to Federal Government.”***

Reporting and Reviewing Burden

- a. Estimate of Burden to Respondents

Respondents are the State and Tribal 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 estimate the total annual burden is 4,765 hours, a reduction of 2,010 hours due to adjustments. The changes in respondent burden are adjustments based on information provided by respondents identified in item 8, above. Refer to the table for a breakdown of the burdens.

| 30 CFR 732 Section | Responses | Hours per Response | Total Hours Requested | Current ICB Hours | Difference |
|--------------------|-----------|--------------------|-----------------------|-------------------|------------|
| 732.16(a) | 28 | 120 | 3,360 | 3,360 | 0 |
| 732.17(b) | 1 | 5 | 5 | 5 | 0 |
| 732.17(f) and (g) | 4 | 350 | 1,400 | 3,410 | -2,010 |
| Total | 33 | | 4,765 | 6,775 | -2,010 |

b. Estimate of Wage Cost to the Respondents

OSMRE estimates that administrative support, a general scientist and a manager with the State and Tribal regulatory authority will prepare the reports and submit to OSMRE. OSMRE has derived wage costs from the Bureau of Labor Statistics (https://www.bls.gov/oes/current/naics4_999200.htm). Benefits were computed at 1.6 of salary as indicated from the U.S. Bureau of Labor Statistics news release USDL-16-2255 entitled EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2016, published December 8, 2016 (<https://www.bls.gov/news.release/pdf/ecec.pdf>).

State and Tribal Regulatory Authority Wage Cost

| Position | Cost per Hour (\$)* | Hourly Rate with Benefits (x 1.6)(\$**) | Percent of time spent on collection | Weighted Average per hour |
|-----------------------------------|---------------------|---|-------------------------------------|---------------------------|
| Clerical | 19.47 | 31.15 | 10% | \$3.12 |
| Physical Scientist | 30.72 | 49.15 | 80% | \$39.32 |
| Manager | 43.12 | 68.99 | 10% | \$6.90 |
| Weighted Average (\$/hour) | | | | \$49.34 |

Therefore, the cost burden to respondents is 4,765 hours x \$49.34 = \$235,105 for State and Tribal regulatory authorities.

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. Total Capital and Start-up Cost

Capital and start-up costs are minimal since compliance is associated with customary business practices beyond grants and services provided by OSMRE.

b. Total Operations and Maintenance Cost

There are no significant or distinct operation or maintenance costs associated with this section beyond that required under normal and customary business activities.

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.*

Federal Government Costs

Oversight.

The following represent the wage costs associated with oversight of this part:

| 30 CFR 732 Section | Responses | Hours per Response | Total Hours |
|---------------------------|------------------|---------------------------|--------------------|
| 732.16(a) | 28 | 120 | 3,360 |
| 732.17(b) | 1 | 1 | 1 |
| 732.17(f) and (g) | 4 | 175 | 700 |
| Total | 33 | | 4,061 |

Federal Programs. OSMRE is the regulatory authority in the states of Tennessee and Washington. We estimate that OSMRE will require the following burden in program states:

| 30 CFR 732 Section | Responses | Hours per Response | Total Hours |
|---------------------------|------------------|---------------------------|--------------------|
| 732.16(a) | 3 | 15 | 45 |
| 732.17(b) | 0 | 0 | 0 |
| 732.17(f) and (g) | 0 | 0 | 0 |
| Total | 3 | | 45 |

Therefore, the burden for OSMRE to comply with this part is 4,106 hours, and the wage cost is as follows:

| Position | Grade | Cost per Hour (\$)* | Hourly Rate with Benefits (x 1.6) (\$**) | Percent of time spent on collection | Weighted Average per hour |
|-----------------------------------|--------------|----------------------------|---|--|----------------------------------|
| Clerical | GS-7/10 | 24.94 | 39.90 | 5% | \$2.00 |
| Physical Scientist | GS-12/10 | 44.23 | 70.77 | 70% | \$49.54 |
| Manager | GS-14/10 | 62.16 | 99.46 | 25% | \$24.87 |
| Weighted Average (\$/hour) | | | | | \$76.41 |

*U.S. Office of Personnel Management Salary Table 2016-RUS located at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/RUS_h.pdf,

** A multiplier of 1.6 of wages to benefits is used according to USDL-16-2255 entitled EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2016, published December 8, 2016.

At an average cost of \$76.41 an hour, the total cost to OSMRE for this Part is \$313,739 (4,106 hours x \$76.41/per hour).

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

The estimate below is based on the information provided by respondents identified in item 8 above, OSMRE's annual report and experience in the collection of State programmatic data.

There are currently 6,775 hours approved by OMB. This collection request will reduce the hours approved for this Part by 2,010 as adjustments. Although there was an increase in the estimated burden per respondent to submit program amendments under 732.17(f) and (g), from 150 hours to 350 hours, there were fewer received recently, from 11 to 4 received. Both of these changes are due to adjustments.

The burden for this part will change as follows:

| |
|---|
| 6,775 hours currently approved |
| - <u>2,010</u> hours due to adjustments |
| 4,765 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 of the 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 are no exceptions to the certification statement.