

SUPPORTING STATEMENT A
30 CFR Part 842 – Federal Inspections and Monitoring

OMB Control Number 1029-0118

Terms of Clearance: None

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to request renewal of approval to collect information under 30 CFR Part 842 of the OSMRE permanent regulatory program. Specifically, 30 CFR 842.12 allows citizens to submit a written request for a Federal inspection. The OSMRE home page on the Internet provides an electronic form and a sample draft letter to assist individuals with preparing a citizen complaint (request for a Federal inspection). The electronic format makes it easier for citizens to file a complaint and request a Federal inspection. It also meets the definition of an information collection activity requiring approval by the Office of Management and Budget (OMB).

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 517(h) and 521(a)(1) of the Surface Mining Control and Reclamation Act (the Act) allow any person to notify OSMRE in writing of any violation which may exist at a surface coal mining and reclamation operation. This notification is commonly referred to as a citizen complaint. The implementing regulations at 30 CFR 842.12(a) require that a person requesting a Federal inspection submit a written statement describing the alleged violation and confirming that the State regulatory authority, if any, has been notified. The regulations also require that the complainant provide contact information, which may

be kept confidential upon request.

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.***

OSMRE uses the information provided by the citizen to determine whether there is reason to believe that a violation of the Act, the regulatory program, or a permit condition exists. If there is reason to believe that a violation exists, OSMRE Directive INE-24 requires that OSMRE issue a ten-day notice to the state regulatory authority, if one exists. OSMRE then follows the ten-day notice procedures set forth in 30 CFR 842.11 to decide whether to conduct a Federal inspection. Under the directive, the ten-day notice requirements do not apply in situations in which the citizen provides adequate proof that (1) an imminent danger to the public health or safety or a significant imminent environmental harm to land, air, or water resources exists and (2) the State regulatory authority, if any, has been notified in writing but has failed to take appropriate action.

Part 842 applies only to Federal inspections. Therefore, this information collection submission does not include citizen complaints submitted to state regulatory authorities. However, it does include citizen complaints received by OSMRE that request a Federal inspection of an operation in a state with primacy.

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.***

Citizens may complete the form on OSMRE's Website at <https://www.osmre.gov/resources/InformationFor/citizens/InspectionRequest.shtm>, or may submit a letter requesting the inspection. We believe that approximately 10% of respondents will use this automated feature.

Both respondents who provided information for this collection request submitted their complaints via letter.

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.***

There is no duplication of this effort at the Federal level because no other Federal agency receives citizen complaints of this nature or collects this information.

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

Information is received typically from citizens or groups, rarely from small businesses.

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.***

Sections 517 and 521 of the Act require that the public have the means to request an inspection through the citizen complaint process. The collection of information occurs only when a citizen decides to file a complaint.

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 activity is initiated by the citizen, not OSMRE. There are deadlines for agency responses to the citizen complaint, but no deadlines are imposed on the citizen related to the information collection. This information collection includes no requirements for the respondents to retain records, includes no use of statistical data, and requires no confidential or proprietary information. Thus, 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.

We contacted an OSMRE oversight staff person in each of the three regional offices, who provided information about the citizen complaint submittal process, and the amount of time needed to submit and review a request. All six citizen complaints received in 2016 in Virginia were submitted anonymously, but the letters were all characterized as needing less than one hour to prepare and submit. In some cases, the complaint begins with a phone call to an OSMRE field office, and the caller receives personalized guidance on how to submit a request in writing. Complaints received in 2016 by the Mid-Continent Region were submitted anonymously. The Casper Field Office in the Western Region issued twelve TDNs to Wyoming as a result of a total of three request letters from two separate environmental groups. We contacted the two environmental groups, WildEarth Guardians and the Powder River Basin Resource Council (PRBRC). PRBRC has submitted multiple requests for Federal inspections in recent years and provided helpful information about the range of time required to prepare their previous requests for Federal inspection. Respondent data from 2014 was also weighed into the current estimated burden.

Program Analyst
Office of Surface Mining Reclamation & Enforcement
150 East B Street
Casper, WY 11018

Supervisor
Office of Surface Mining Reclamation & Enforcement
501 Belle Street
Alton, IL 62002

Physical Scientist
Office of Surface Mining Reclamation & Enforcement

1947 Neeley Road
Big Stone Gap, VA 24219

Powder River Basin Resource Council
934 N. Main Street
Sheridan, WY 82801

WildEarth Guardians
2590 Walnut Street
Denver, CO 80205

No concerns were identified regarding the availability of data, frequency of collection, clarity of instructions and record keeping of the required information to be collected. They stated that minimal time was required to make a complaint and request an inspection.

On June 21, 2017, OSMRE published in the Federal Register (82 FR 28353) 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. OSMRE received no comments in response.

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.

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

Section 842.12 requires the citizen's identity who filed the complaint to remain confidential if so requested, unless the person elects to accompany the inspector during the inspection.

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.***

No sensitive questions are 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 Respondent Reporting Burden

Based on data from the three most recent fiscal years reported (October 1, 2013 through September 30, 2016), we expect an average of 38 citizen complaints to be filed with OSMRE per year during the next three years. As was the case in 2016 for the WildEarth Guardians and the Powder River Basin Resource Council requests, a single citizen complaint can result in multiple TDNs being issued to the regulatory authority in a particular state, or even across multiple states. Although the environmental groups told us it took 6 and 15 hours to research, provide supporting documentation for, and draft their 2016 citizen complaint request letters on self-bonding, these requests were unusually more detailed and far exceeded the time for them to prepare their typical request for a Federal inspection. They told us that the typical request letter they have prepared in recent years takes closer to one hour to prepare. Due to the new information we received from respondents, we expect that future request letters will require an average of 1 hour for the respondent to prepare and submit.

Therefore, the burden to all respondents is approximately 38 hours (38 responses x 1 hour).

b. Estimate of Respondent Annual Wage Cost

Using U.S. Department of Labor’s Bureau of Labor statistics for the mean hourly wage cost for all civilian respondents (category 00-0000 All Occupations) at https://www.bls.gov/oes/current/oes_nat.htm (\$23.86 per hour), plus benefits calculated at 1.4 of hourly wages as derived from the U.S. Bureau of Labor Statistics news release USDL-17-0321 entitled EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2016, published March 17, 2017

(<http://www.bls.gov/news.release/pdf/ecec.pdf>), we estimate citizen's total wage costs at \$33.40 per hour. Therefore, the total cost to all respondents under section 842.12 is estimated to be approximately \$1,269 (\$33.40 per hour x 1 hour x 38 responses).

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. Annualized Capital and Start-up Costs

There are no capital and start-up costs associated with this activity except for postage which is minimal.

b. Operation and Maintenance Costs

There are no significant or distinct operations or maintenance costs associated with this section.

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

OSMRE requires approximately 13 hours reviewing each citizen complaint and forwarding it to the appropriate office for an inspection. [The burden for inspections conducted under 30 CFR Part 842 is approved separately under 30 CFR 840 (OMB control number 1029-0051)].

Typically, OSMRE would rely on a GS 13 step 5 technician, being paid \$46.60 per hour (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS_h.pdf). Including benefits calculated at a rate of 1.6, as indicated by the BLS news release USDL-17-0321 (<http://www.bls.gov/news.release/pdf/ecec.pdf>), to conduct the review and forward the request to the appropriate office, it would cost OSMRE \$74.56 per hour. Therefore, 38 citizen complaints received x 13 hours to process x \$74.56 per hour = approximately \$36,833.

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

The burden hour estimates are based on information received from the contacts that were randomly picked and discussed in item 8 above.

This request represents a decrease of 2 burden hours. While the number of responses we receive annually has decreased from 53 to approximately 38, we estimate that the average time to prepare a request has slightly increased from 45 minutes to one hour. This is due to a few recent complaint letters received that were lengthy, and included extensive supporting information.

Therefore, we are requesting the following burden change:

40 Hours currently approved by OMB
- 2 Hours due to an adjustment
38 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.***

OSMRE has no plans to publish the information collected.

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 "*Certification for Paperwork Reduction Act Submissions.*"