

Supporting Statement A

30 CFR Part 872 -

Moneys Available to Eligible States and Indian Tribes

OMB Control Number 1029-0054

Terms of Clearance: None

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE or us) to authorize us to collect information to ensure that Abandoned Mine Land (AML) Reclamation funds are withheld from those states and Indian tribes pursuant to 30 CFR §§ 872.14 through 872.18, and made available for other purposes as outlined in Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Additionally, this information collection clearance package authorizes us to collect information pursuant to the Consolidated Appropriations Act 2016 (H.R. 2029), and Public Law 114-113 relating to the AML Pilot Program, Making Further Continuing Appropriations for Fiscal Year 2017, and for other purposes (H.J. Res. 99). Both appropriations provided funding from the General Fund of the Treasury to certain states to be used for economic and community development in conjunction with the priorities in Section 403(a) of SMCRA.

If a state or Indian tribe notifies OSMRE in writing that it does not intend to submit a reclamation plan, no moneys will be allocated to that state or Indian tribe. Since approval of the initial information collection (1029-0054), only two states (Georgia and Washington) have notified OSMRE of their decision not to participate in the AML program. No AML funds have been granted to those states pursuant 30 CFR §§ 872.14 through 872.18.

The Consolidated Appropriations Act, 2016 (Public Law 114-113) and the 2017 Consolidated Appropriations Act (Public Law 115-31) made available \$90 million and \$105 million respectively to the Department of the Interior's (DOI) Office of Surface Mining Reclamation and Enforcement (OSMRE) for projects classified under the Abandoned Mine Land (AML) Pilot. The purpose of these funds being to accelerate the remediation of AML sites in conjunction with economic and community development end uses. The 2017 AML Pilot program provides grants of \$25 million to each of the three Appalachian States with the greatest amount of unfunded Priority 1 and Priority 2 AML sites (Kentucky, Pennsylvania, and West Virginia) and \$10 million to each of the three Appalachian States with the subsequent greatest amount of unfunded Priority 1 and Priority 2 AML sites (Alabama, Ohio, and Virginia).

These states may use Pilot funds for eligible sites that include; unreclaimed Priority 1, Priority 2 or Priority 3 sites (i.e., AML lands and polluted waters) listed in e-AMLIS (the inventory of these unreclaimed sites); previously reclaimed AML lands and polluted waters; and, land adjacent to unreclaimed or previously reclaimed AML lands and polluted waters as justified by the state and/or the communities impacted by historic coal production. Projects may either directly incorporate economic and community development with AML reclamation, or create conditions that will enhance sites for residential, agricultural, commercial or industrial development reuse/uses.

In order to apply for Pilot funds, respondents apply through their respective state reclamation agency. OSMRE has issued a guidance document (<https://www.osmre.gov/programs/AML/pilotProgramGuidance.pdf>) to help states identify projects that would be eligible for Pilot funds. States have created their own applications based on this document. Staff burden to facilitate the Pilot Program is a function of state reclamation agencies and project partners gathering and providing information for regional OSMRE staff and OSMRE HQ staff to verify eligibility of projects to receive Pilot funds based on measureable economic benefits and a site's relation to AML. Approved projects are processed through the OSMRE regional office and additional details are provided from the states and partners to complete the National Environmental Policy Act (NEPA) process before OSMRE issues an authorization to proceed (ATP) and construction work can begin. The Information Collection Budget for this part previously had a total burden of one hour but with the addition of the AML Pilot Program that burden will increase. The average hour burden per project for a project partner is 85 hours, and 155 hours for a state reclamation agency.

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 Internal Control Review contain surveys, censuses, or employ statistical methods?" is checked "Yes," then a "Supporting Statement B" must be completed. The Office of Management and Budget reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

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

Sections 401 and 402 of the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, provide for the creation of the Abandoned Mine Reclamation Fund and require the Secretary to make a determination regarding the use of

allocated state and Indian tribe funds which have been granted but not expended within a three-year period.

In addition, Public Law 114-113 and Public Law 115-30 also require the Secretary to make a determination regarding the use of General Funds of the Treasury to certain states to be used for economic and community development in conjunction with the priorities in Section 403(a) of SMCRA.

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 information is used to determine which states and Indian tribes will not be granted funds for reclamation work pursuant to 30 CFR §§ 872.14 through 872.18. States and Indian tribes may submit in writing a notice that they will not be developing and maintaining a reclamation plan. These notices are developed once, normally when a state requests primacy. Since approval of the initial information collection clearance package (1029-0054), only two states have notified OSMRE of their decision not to participate in the AML program. No AML funds have been granted to these states pursuant to 30 CFR § 872.12(b)(1).

Additional information is provided to OSMRE by state reclamation agencies to determine eligibility of economic development projects looking to receive Treasury Funds allocated to the AML Pilot Program. Project partners, which can be environmental groups, local businesses, or local governments, provide project descriptions to state reclamation agencies. The state reclamation agencies work with the project partners to complete the documentation and submit to OSMRE for approval. Once a project has been granted preliminary approval, additional information is provided by the state reclamation agency in order for OSMRE to issue an Authorization to Proceed (ATP). With an ATP issued, ground breaking can begin on the project.

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 the individual states and Indian tribes and is collected only once. OSMRE would accept this written notice by email, but it would likely be part of a larger package submitted to the Director in paper form.

Information to review projects for the AML Pilot Program is collected in

electronic form but would also be accepted 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 similar data pertaining to AML funds is collected by OSMRE or by other Federal agencies.

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

Small businesses interested in applying for funds under the AML Pilot Program can receive support from their state reclamation agency to compile information that OSMRE requires to approve projects for funding.

6. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

If information is not collected, then OSMRE cannot provide funds to help depressed coal communities reclaim abandoned mine lands and create economic and community development in conjunction with the priorities in Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1233(a)].

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.

- 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.

There have been no notices from states or Indian tribes stating that they will no longer participate in the AML program for a number of years. Since there have been no responses for this collection in many years we could not contact respondents directly.

In May 2017, OSMRE contacted our Regional Offices to determine the burden necessary for a state or Indian tribe to prepare and submit a letter notifying OSMRE that the state or Indian tribe will not develop a reclamation plan.

OSMRE contacted:

OSMRE Appalachian Region
3 Parkway Center
Pittsburgh, PA 15220

OSMRE Mid-Continent Region
William L. Beatty Federal Building
501 Belle Street, Suite 216
Alton, Illinois 62002

OSMRE Western Region

1999 Broadway, Suite 3320
Denver, CO 80202

The Regional Directors stated that minimal burden would be required to prepare the notification. Further, they had no concerns regarding the availability of data, frequency of collection, clarity of instructions and record keeping of the information collection requirements imposed on the state or Indian tribe to prepare the letter.

In June 2017, OSMRE contacted State Coordinators for the Pilot Program to determine the hour burden necessary for a state or Indian tribe to prepare and submit the information required by OSMRE to approve projects.

OSMRE contacted:

Pennsylvania AML Pilot Coordinator
Supervisory Program Specialist
215 Limekiln Road
New Cumberland, PA 17070

West Virginia AML Pilot Coordinator
1027 Virginia Street
East Charleston, WV 25301
Phone: (304) 347-7162 x3019
Email: rbuckley@osmre.gov

Kentucky AML Pilot Coordinator
Regulatory Program Specialist
2675 Regency Road
Lexington, KY 40503

On August 16, 2017, OSMRE published in the Federal Register (82 FR 38933) 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. OSMRE published a second notice requesting comments from the public on December 14, 2017 (82 FR 58821). No comments were received in response to this notice either.

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

All payments are made as remuneration to grantees.

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 Respondent Reporting Burden

State/Tribal Notification to Cease AML Program: There are no respondents for those who do not wish to participate in the AML program to which 30 CFR § 872 is applicable, and no further information collection burden is anticipated. Therefore, the actual burden hours and number of respondents is estimated to be zero. However, assuming OSMRE receives one letter stating that a state or Indian tribe will not be developing a reclamation plan, a burden of one hour will be required by the state or Indian tribe that prepares and submits a letter.

AML Pilot Project: The number of respondents interested in applying for an AML Pilot project vary by state. However, based on 2016 data we estimate that 9 projects will be received in each of the 6 states, or 54 projects. The estimated

hour burden varies by state and project, but based on responses from the State AML Pilot Coordinators involved with the 2016 Pilot Program, the average hour burden per project is estimated to be 85 hours (range 70- 100) for project partners, or 4,590 hours for all 54 projects. The range of hour burden is based on responses we received from the field (e.g. one state estimated 70 hours per project and another estimated 100 hours, which we averaged for an estimate of 85 hours). We also estimate that 155 hours (range 110 – 200) will be required by each state reclamation agency, or 8,370 hours for all states. These estimates were derived from those respondents identified in item 8. Estimates vary due to complexity of the projects and if a project goes through multiple iterations before approval.

Therefore, the burden to all respondents for this collection is 1 hour (for states to prepare letter to cease reclamation plan) + 4,590 hours (to prepare pilot projects) + 8,370 hours (for states to edit and review pilot projects) = 12,961 hours for all respondents.

b. Estimate of Respondent Annual Wage Cost

State/Tribal Notification to Cease AML Program:

OSMRE estimates that a mid-level attorney for a state government will prepare the letter. We assume a salary of \$71.79 per hour derived from the Bureau of Labor Statistics website http://www.bls.gov/oes/current/naics4_999200.htm#23-0000, which includes a benefits factor of 1.6 of salary as implied by the Bureau of Labor Statistics news release USDL-17-1222, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—June 2017, dated September 8, 2017 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).

Therefore, the wage cost to respondents to prepare a letter to OSMRE stating that a state or Indian tribe will not be developing a reclamation plan, is \$72 (rounded).

AML Pilot Project:

OSMRE estimates that an engineer with a coal background will prepare the AML Pilot Project documentation for an organization. We assume a salary of \$60.10 per hour derived from the Bureau of Labor Statistics website https://www.bls.gov/oes/current/naics4_212100.htm#17-0000, which includes a benefits factor of 1.4 of salary as implied by the BLS news release USDL-17-1222.

Therefore, the wage cost to respondents to prepare the AML Pilot Project documentation for an organization is \$60.10 x 85 hours x 54 projects = \$275,859.

In addition, state reclamation agencies require an average of 155 hours to assist in the development of the project documentation and review before submitting to OSMRE for approval. OSMRE estimates that a state engineer will review the

documentation. At \$62.91 per hours (derived from the Bureau of Labor Statistics website http://www.bls.gov/oes/current/naics4_999200.htm#23-0000, which includes a benefits factor of 1.6 of salary as implied by the BLS news release USDL-17-1222), the wage cost to state reclamation agencies is \$62.91 x 155 hours x 54 projects = \$526,557.

The total wage cost for this collection is \$72 (for state to cease reclamation plan) + \$275,859 (to prepare pilot project) + \$526,557 (for states to edit and review pilot projects) = \$802,488 for all respondents.

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.**

There are no costs incurred beyond the hourly wage cost.

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.

State/Tribal Notification to Cease AML Program: Using \$74.56 per hour (including a multiplier of 1.6 for benefits as indicated by the BLS news release BLS news release USDL-17-0770) for a GS 13 step 5 Federal attorney (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS_h.pdf), OSMRE estimates the annual cost of reviewing the letter stating that the state or Indian tribe will not be developing a reclamation plan and implementing that decision, will be 2 hours x \$74.56 = \$149 (rounded).

AML Pilot Project: OSMRE staff estimates that it will incur an average of 20 hours per project to review and approve projects for ATPs. Using \$74.56 per hour (including a multiplier of 1.6 for benefits as indicated by the BLS news release BLS news release USDL-17-0770) for a GS 13 step 5 engineer (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS_h.pdf), OSMRE estimates the annual cost of reviewing the AML Pilot Projects will be 20 hours x \$74.56 x 54 projects = \$80,525.

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

The introduction of the AML Pilot Program will increase the hour burden to states, and create a new burden for respondents who prepare project documents. The AML Pilot Program is enacted through congressional action on an annual basis and the burden would only apply in those years the program is funded.

Therefore, the burden changes as follows:

1	hours currently approved
+	12,960 hours due to a program change
	12,961 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 or statistical use 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.

The OMB control number is displayed at 30 CFR § 872.10.

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

No exception is requested.