

1 Supporting Statement A

30 CFR Part 700 - General

OMB Control Number 1029-0094

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 permission to continue collecting information under 30 CFR Part 700. The regulations govern termination of jurisdictions, petitions for rulemaking, and citizen suits under the Surface Mining Control and Reclamation Act and its implementing regulations. This information collection was previously reviewed and approved by the Office of Management and Budget (OMB) and assigned control number 1029-0094.

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

Justification

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

As authorized by sections 502, 515, and 516 of the Surface Mining Control and Reclamation Act (SMCRA), 30 CFR 700.11(d)(1) and (2) define the criteria and procedures for determining when regulatory jurisdiction ends under SMCRA over a surface mining control and reclamation operation site. The information required includes a written determination by the regulatory authority that all of the regulatory requirements imposed by either the initial or permanent program have been met and, therefore, there no longer exists a surface coal mining and reclamation operation on the particular site or increment thereof. Initial program sites and permanent program sites will require a written finding by the regulatory authority that all requirements imposed under the regulatory program have been successfully completed. Final bond release for permanent

program sites will indicate that the site has met all the applicable regulatory requirements, and jurisdiction may be terminated. This information collection submittal only reflects burden placed on State regulatory authorities under its initial programs to terminate jurisdiction since the State permanent program responsibilities are found at 30 CFR 800 and the collection authority has been approved separately.

Section 201(g) of SMCRA provides for a process by which persons may petition the Secretary of the Interior for the “issuance, amendment or repeal of a rule under this Act.” Subsection 201(g)(2)-(4) sets forth the process for such petition. These provisions were implemented as regulations at 30 CFR 700.12(b). This provision gives any person, State or local government an opportunity to initiate rulemaking proceedings by filing a petition for rulemaking with OSMRE. The petition is required to set forth a concise statement of the facts, technical justification, and law that require the amendment or repeal of a regulation. Petitioners are also to indicate their desire for a public hearing on the petition. Individuals or organizations seeking changes in the regulations volunteer petitions.

Section 520 of SMCRA authorizes citizens to sue OSMRE and/or State regulatory authorities to compel regulatory compliance with the SMCRA or duties under the SMCRA that are not discretionary. In 30 CFR 700.13, those citizens intending to sue under Section 520 are required to send notice of such a suit to the Secretary of the Interior and the Director of OSMRE, the head of the State regulatory authority (if the State is part of the suit), and the alleged violator (if part of the suit). The person needs to provide certain information pertinent to the suit, such as the section of SMCRA or regulation violated, identification of the party responsible for the violation, identification of the person suing as well as identification of legal counsel.

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.*

Section 700.11:

The information is used by the OSMRE and States to establish a point where a site is no longer a surface coal mining and reclamation operation and, therefore, regulatory jurisdiction ends.

Section 700.12:

The information required by this regulation is to be used by the Director of OSMRE to consider the need, costs and benefits of the proposed regulatory change in order to grant or deny the petition submitted. If the information were not submitted, there could be no petitions for rulemaking, limiting public participation in the regulatory process.

Section 700.13:

The information is used by OSMRE or the State to identify the person and the nature of the suit, so that OSMRE or the State can respond to it. If this information collection were

not conducted, OSMRE and the States could not properly defend themselves under due process.

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 mining operation, each petitioner, and each lawsuit. Respondents are State regulatory authorities that prepare documentation prior to terminating regulatory jurisdiction over a surface coal mining operation. Form letters are prepared on computer which reduces the burden placed on State regulatory authorities each time the States prepare to terminate jurisdiction on an interim site or upon completion of reclamation activities after bond forfeiture. Although electronic submission of the written findings is encouraged, since there are so few interim sites remaining, it is not practical for OSMRE to require State regulatory authorities to submit this information electronically although they could. Respondents are citizens and individual companies who intend to sue the Federal and/or State government. OSMRE usually receives Notices of Intent (NOI) electronically, followed by hard-copy letters in the mail.

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.*

Since circumstances vary with each permit application, there is no other available source of information that can be used to satisfy the law. No similar information pertaining to terminating jurisdiction over an interim permitted coal mining operation is required by other Federal agencies. No similar information pertaining to amending Chapter VII of the Code of Federal Regulations is required by other Federal agencies. No similar information pertaining to citizen suits is required by other Federal agencies relating to the conduct of surface coal mining. Since circumstances vary with each notice of citizen suit, there is no other available source of information that can be used to satisfy the law.

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

There are no small entities associated with this collection. Potential respondents are the 24 State regulatory authorities. There are no special provisions to minimize burden for small coal mining operations or other small entities. There are no special provisions to minimize burden for small coal mining operations or other small entities.

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 collection will occur at times of termination of jurisdiction, petition for rulemaking, and at times of notice of intent (NOI) to sue by a citizen. Therefore, the frequency of collection does not apply here.

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.*

Not applicable. There are no special circumstances that require the collection of information to be conducted in a manner inconsistent 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 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.

OSMRE contacted each of its three regional offices to determine recent actions regarding 30 CFR 700. OSMRE contacted its regulatory program staff regarding the information collection requirements associated with filing petitions for rulemaking. There were no new petitions for rulemaking over the last three years. Therefore, the responses and burden estimate per response remain unchanged. We use the estimates from respondents from the previous renewal. There were no comments or concerns with the reporting requirements of the subject regulations or availability of information.

On May 28, 2021, OSMRE published in the Federal Register (86 FR 28889) 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.

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

OSMRE provides no payments or gifts to respondents beyond grants authorized by law.

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

There are no confidentiality provisions since termination of liability decisions, petitions for rulemaking, and NOI's are a matter of public record.

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

Not applicable. Sensitive questions are not asked.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*

** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*

** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.*

a. Estimated Reporting Burden:

Section 30 CFR 700.11(d) requires regulatory authorities to provide written documentation in support of terminating jurisdiction over initial program sites. Based upon data from of the Annual Evaluation Reports for Evaluation Years 2018 through 2020, there have been 2 written determinations regarding termination of jurisdiction on initial program sites over the span of the last three years. We therefore estimate that for the next three years, regulatory authorities will provide 1 new written determination annually. Each written determination requires approximately 1 hour preparing since the written determination is standardized and easily generated.

Based on information supplied by OSMRE's regulatory program, only one petition for rulemaking was received in the last three years. OSMRE will assume that one petition will be received each year requesting rulemaking. Based on information provided by the respondent identified in item 8, each petition required about 50 hours to prepare.

Based on information provided by OSMRE's three regional offices we estimate that approximately 3 notices will be received annually. The individuals identified in item 8 stated that the notice of intent to sue consists of only preparing a letter, which takes approximately four hours to complete as required by 30 CFR 700.13.

Summary Burden Hours by Section

Section	Responses	Hours per response	Total Hours	Current Hours	Change
700.11	1	1	1	1	0
700.12	1	50	50	50	0
700.13	3	4	12	12	0
Total	5		63	63	0

b. Estimate of wage cost to respondents:

Based on state hourly rates from Bureau of Labor Statistics at http://www.bls.gov/oes/current/naics4_999200.htm, we use a rate of \$61.26/hour for a mining engineer.

OSMRE uses a 1.6 multiplier for State workers and 1.4 for industry per BLS news release USDL-21-1094, dated June 17, 2021, Employer Costs for Employee Compensation – March 2021 (<http://www.bls.gov/news.release/pdf/ecec.pdf>). The hour rate with benefits is **\$98.02/hour** (\$61.26 x 1.6).

OSMRE estimates that the request will be prepared by a private sector attorney. The hourly estimated wage for an attorney is \$73.86 per hour based the Bureau of Labor Statistics (https://www.bls.gov/oes/current/naics4_541100.htm). We adopt a benefit factor of 1.4 for industry benefits We estimate the hourly rate at \$103.40/hour (\$73.86/hour x 1.4). Therefore, wage cost to the respondent to prepare the request amounts to **\$5,170.20** (\$103.40 / hour x 50 hours). Similarly, for notices of intent the cost to respondents to prepare and submit the total number of annual requests would be **\$1,240.85** (\$103.40/hour x 4 hours per request x 3 notices per year).

Total wage cost amounts to **\$6,509** (\$98.02 + \$5,170.20 + \$1,240.85).

Section	Occupation	BLS Hourly Rate \$	Wage rate with benefit \$	Hours	Wage cost \$
700.11	Mining engineer	61.26	98.02	1	98.02
700.12	Attorney	73.86	103.40	50	5,170.20
700.13	Attorney	73.86	103.40	12	1,240.85
All			103.32	63	6,509

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.*

Estimated Annual Non-Wage Cost Burden to Respondents

There are no costs incurred beyond the hourly wage costs or minimal postage costs. All associated inspection time is found at 30 CFR 840.11.

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

Federal employee pay tables are based on the Office of Personnel Management's website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf.

For OSMRE’s own staff work we estimate work is be carried out on average at a GS-13 step-5 level using the 2021 base rate of \$50.04/hour. We adopt the benefit factor of 1.6 for Federal benefits based on BLS news release USDL-21-1094, dated June 17, 2021, Employer Costs for Employee Compensation – March 2021

(<http://www.bls.gov/news.release/pdf/ecec.pdf>).

Applying the benefit factor (1.6) to the base hour rate we arrive at a Federal cost rate of \$80.06 per hour.

There is no established frequency for conducting oversight reviews of State compliance with the requirements of 30 CFR 700.11. If we were to conduct a special study of this topic in two State programs every four years, that review would require an average of 40 hours per State, or 80 hours every four years, or an average of 20 hours annually. Therefore, 20 hours annually x \$80.06 per hour = **\$1,601**.

Our regulatory program staff responsible for responding to petitions for rulemaking estimate it takes OSMRE staff 140 hours to review a petition for rulemaking and to prepare a written response to accept or reject the petitioner request. This includes forming a team comprised of a representative from each of the three regions, as well as a team leader from OSMRE headquarters. The cost to the Federal government would be 140 hours x \$80.06 per hour = **\$11,208**.

It would require a program specialist from one of OSMRE’s regional offices and/or a field office a combined total of 2 hours to review NOIs and forward it to the appropriate office. The cost to the Federal government would be **\$480** (2 hours x 3 notices/year x \$80.06 per hour annually).

FEDERAL COST BURDEN SUMMARY FOR 30 CFR 700		
Section	Federal Hours	Federal wage \$ cost @ \$80.06/hour
700.11	20	1,601
700.12	140	11,208
700.13	6	480
All	166	13,289

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

This information collection request will not adjust the burden currently approved by OMB.

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.*

The OMB approval information is displayed at 30 CFR 700.10.

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

There are no exemptions to the "Certification for Paperwork Reduction Act Submissions."