

## Supporting Statement A

### 30 CFR Part 774 – Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights

OMB Control Number: 1029-0116

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 information collection report (ICR) contain surveys, censuses, or employ statistical methods?” is checked “Yes,” then a Supporting Statement B must be completed. Office of Management and Budget (OMB) reserves the right to require the submission of additional information with respect to any request for approval.*

#### **Introduction**

The Office of Surface Mining Reclamation and Enforcement (OSMRE) is submitting this request for information collection to collect information under 30 CFR Part 774, Revision; Renewal; Transfer, Assignment, or Sale of Permit Rights. The regulations under 30 CFR Part 774 address general and specific requirements for permit revisions and renewals; transfer, assignment, or sale of permit rights; permittee post-permit information disclosure; update, maintenance requirements; and procedures for regulatory authorities to pursue permanent permit ineligibility, develop findings of ownership and control, and determine if alternative enforcement actions for Parts 843, 846, or 847 are warranted when a person is found to own or control a surface coal mining operation having an unabated or uncorrected violation.

The OMB has previously approved the information collection for 30 CFR Part 774, which has been assigned the OMB Control Number 1029-0116.

#### **Specific Instructions**

#### **Justification**

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

Following permit issuance, a permittee continues to have information disclosure obligations under the Act and its implementing regulations. Section 774.12 requires industry respondents (permittees) to provide information following the issuance of a

permit when certain specified events occur in accordance with §§507 and 510 of Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The information collected from permittees under §774.12 ensures the continued accuracy and completeness of entity, affiliation, and violation information required under §§507 and 510 of the Act after a permit is issued.

The information collection associated with §774.13 is the submission of the information required in an application for a permit revision. The legal authority for §774.13 is found in §511 of SMCRA.

The information collection associated with §774.15 is the information provided by a permittee in an application for a permit renewal. Section 774.15(b)(1) through (b)(4) requires a permittee applying for a permit renewal to comply with the specific information and procedural requirements for an application for a permit renewal. Information such as, terms of the renewal, evidence of adequate liability insurance or self-insurance for the period of renewal, and a copy of the proposed newspaper notice and proof of publication. The legal authority for §774.15 is found in §506(d) of SMCRA.

Persons must file an application to apply for a transfer, assignment, or sale of permit rights. The application includes the following information: Section 774.17(b)(1) requires an applicant for a transfer, assignment, or sale of permit rights to submit an application for a transfer, assignment, or sale of permit rights; Section 774.17(b)(2) requires an applicant for a transfer, assignment, or sale of permit rights to advertise a filed application in a newspaper of general circulation in the locality of the permitted operation; Section 774.17(e)(2) requires a successor to provide immediate notice to the regulatory authority with jurisdiction of the consummation of a transfer, assignment, or sale of permit rights. The legal authority for §774.17 is found in §§506(b) and 511(b) 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.*

- Section 774.12(a) requires permittees to provide updates to information initially disclosed in an application under 30 CFR 778.11 within 30 days of being cited with a cessation order. Information, such as, all permit records, unabated or uncorrected violations, and changes in violation status must be entered in the applicant violator system (AVS). This information is reviewed and approved by the State regulatory authority to ensure the information is complete and in compliance with 30 CFR 778.11.
- Section 774.12(c) requires permittees to update the information initially required to be provided in an application for a permit under 30 CFR 778.11 within 60 days of a change in that information, including the date of any departure. This information is

reviewed and approved by the State regulatory authority to ensure the information is complete and in compliance with 778.11.

- Section 774.13(b)(2) requires a permittee applying for, at minimum, a significant permit revision to comply with the information and procedural requirements under §§773.6, 773.19(b)(1) and (3), and 778.21. The permittee is also required to file a notice in a newspaper of general circulation in the locality of the permitted operation announcing the application
- Section 774.13(c) requires a regulatory authority to disapprove an application for a permit revision if an applicant does not meet the criteria for approval.
- Section 774.15(b)(1) through (b)(4) requires a permittee applying for a permit renewal to comply with the specific information and procedural requirements for an application for a permit renewal to advertise a filed application in a newspaper of general circulation in the locality of the permitted operation.
- Section 774.15(c) requires regulatory authorities to review applications for permit renewals and determine the eligibility of an applicant.
- Section 774.15(e) requires regulatory authorities to notify OSMRE, if OSMRE is not the regulatory authority, and the applicant, each person who filed comments or objections on the renewal, and to each party to any informal conference held on the permit renewal, of its decision regarding the permit.
- Section 774.17(b)(1) requires an applicant for a transfer, assignment, or sale of permit rights to submit an application for a transfer, assignment, or sale of permit rights.
- Section 774.17(b)(2) requires an applicant for a transfer, assignment, or sale of permit rights to advertise a filed application in a newspaper of general circulation in the locality of the permitted operation.
- Section 774.17(d)(1) provides that a regulatory authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if the regulatory authority makes a written finding with respect to an applicant's eligibility for a permit under §§773.12 and 773.14.
- Section 774.17(e)(1) requires a regulatory authority to notify OSMRE, if OSMRE is not the regulatory authority, the permittee, the successor, and commenters of its permitting decision and findings on the proposed transfer, assignment, or sale of permit rights.
- Section 774.17(e)(2) requires a successor to provide immediate notice to the regulatory authority with jurisdiction of the consummation of a transfer, assignment, or sale of permit rights.

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 Government Paperwork Elimination Act (GPEA) requirements.*

Applicants are required to provide specific information in applications for permit revisions; permit renewals; and transfer, assignment, or sale of permit rights, and update specific information after a permit is issued. This information is maintained in the Applicant/Violator System (AVS). The legal authority under the Act for information collection in 30 CFR Part 774 is found at §§506, 507, 509, 510, and 511.

The Applicant Violator System (AVS) is an automated information system owned and operated by OSMRE. Information on applicants, permittees, operators, application and permit records, as well as unabated or uncorrected environmental violations of SMCRA are maintained in this nationwide database for OSMRE's Federal and State programs.

The majority of the information used in 30 CFR Part 774 is required for initial disclosure under 30 CFR Part 778. Most of the information collected for 30 CFR Part 774 is conducive to electronic media and transmission. OSMRE and 24 approved State regulatory programs have used AVS, among other things, to assist in determining the eligibility of permittee-applicants for permit revisions, permit renewals, and transfer, assignment or sale of permit rights. AVS contains permitting history as well as entity and compliance information. OSMRE continues to maintain operation of the AVS and coordinates with and assists States in maintaining accurate and complete data. The industry and general public may also obtain access to AVS to view applicant, permittee, permit history, and violation information.

Most State regulatory authorities have adopted electronic permitting (e-Permitting) for receiving and processing permit applications such as the following electronic permitting site:

<http://svc.mt.gov/deq/myCOALPublic/ePermit/GetePermitTab>

For OSMRE's Federal regulatory program OSMRE has a stated goal for converting all permitting records electronic by June 2024.

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.*

The required information under 30 CFR Part 774 is unique to each surface coal mining applicant for permit revision; permit renewal, and transfer, assignment, or sale of permit rights. No other source of the information is available. Industry respondents are companies in the coal mining business who have been issued permits and must then comply with the information disclosure requirements following permit

issuance, or with application requirements concerning permit revisions; permit renewals; and transfers, assignments, or sales of permit rights. State respondents are the OSMRE-approved State programs that implement permitting and enforcement for surface coal mining operations.

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

There are no special provisions for small businesses or other small entities under these regulations. OSMRE does have a small operator assistance program, regulated under 30 CFR Part 795, which has a separately approved information collection clearance number where OSMRE and the States provide data and assistance to assist 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.*

Respondents provide information required for 30 CFR Part 774 only at the time of application for a permit renewal; revision; or transfer, assignment or sale of permit rights. Less frequent collection of the information would compromise the accuracy and completeness of information required for nationwide permitting and enforcement purposes and would not be in compliance with the Act.

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 information collection for 30 CFR Part 774 is consistent with 5 CFR 1320(d)(2). Information is collected at the time a permittee applicant applies for a permit revision; permit renewal; or a transfer, assignment, or sale of permit rights and at the time a permittee is cited with a cessation order, or incurs a change in the information required for disclosure when initially applying for a permit. OSMRE is currently working with State regulatory authorities to accept electronic permit applications, thereby reducing or eliminating paper copies submitted by applicants. Where OSMRE is the regulatory authority we require no more than one original and two copies of each application.

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.*

Contacts and received information (January-March 2023) from industry operators, State regulatory authorities, and Federal program offices listed below:

Peabody Western Coal Company (PWCC)  
Kayenta Mine  
P.O. Box 650  
Kayenta, AZ 86033

Navajo Transitional Energy Company (NTEC)  
Navajo Mine  
P.O. Box 958  
Shiprock, NM 87420

**State Regulatory Authorities**

Montana Department of Environmental Quality  
Coal and Opencut Mining Bureau  
1216 East 6th Avenue  
Helena, Montana  
59620-0901

### **Federal Oversight Contact**

Permit Coordinator/Assessor  
OSMRE-Casper Area Office  
100 East B Street  
Room 4100  
Casper, WY 82601

OSMRE- Interior Regions 5, 7-11 (formerly Western Region)  
One Denver Federal Center, Building 41  
Denver, CO 80225

The above respondents did not identify any concerns regarding the availability of data, frequency of collection, clarity of instructions and record keeping of the information collection requirements. These individuals provided updated burden estimates identified in items 12 and 14 for each section.

On November 28, 2022, OSMRE published in the Federal Register (87 FR 73035) 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, OSMRE did not receive any comments.

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.*

No confidential information is solicited or required under the information collection requirements for 30 CFR Part 774. If an applicant identifies information for 30 CFR Part 774 it wants to remain confidential, regulatory authorities rely upon the

regulatory provisions at 30 CFR 773.6(d) to ensure confidentiality of qualified information.

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 information is solicited or required under the information collection requirements for 30 CFR Part 774.

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. Burden Hour Estimates for Respondents

SECTION	PERMITTEE RESPONSES	STATE RESPONSES	TOTAL RESPONSES	PERMITTEE HOURS PER RESPONSE	STATE HOURS PER RESPONSE	HOURS REQUESTED
774.12(a)	543	532	1,075	2	3	2,682
774.12(c)	55	50	105	8	6	740
774.13	1,600	1,595	3,195	70	95	263,525
774.15	662	654	1,316	16	60	49,832
774.17(b)(1),(b)(2)	350	0	350	24	0	8,400
774.17(e)(1), (e)(2)	0	348	348	0	65	22,620
<b>Total</b>	<b>3,210</b>	<b>3,179</b>	<b>6,389</b>			<b>347,799</b>

SECTION	PERMITTEE HOURS	STATE HOURS	HOURS REQUESTED	CURRENTLY APPROVED HOURS	CHANGE TO BURDEN
774.12(a)	1,086	1,596	2,682	1,644	1,038
774.12(c)	440	300	740	2,208	-1,468
774.13	112,000	151,525	263,525	342,250	-78,725
774.15	10,592	39,240	49,832	33,386	16,446
774.17(b)(1),(b)(2)	8,400	0	8,400	6,672	1,728
774.17(e)(1), (e)(2)	0	22,620	22,620	18,005	4,615
<b>Total</b>	<b>132,518</b>	<b>215,281</b>	<b>347,799</b>	<b>404,165</b>	<b>-56,366</b>

b. Estimated Wage Cost to Respondents

OSMRE has estimated wage costs for respondents: industry and State regulatory employees. Industry wages are from the Bureau of Labor Statistics (BLS) websites at: [https://www.bls.gov/oes/current/naics4\\_212100.htm](https://www.bls.gov/oes/current/naics4_212100.htm). State employee hourly wage rates are from [https://www.bls.gov/oes/current/naics4\\_999200.htm](https://www.bls.gov/oes/current/naics4_999200.htm).

Benefit factor is based upon a rate of 1.4 of the salary for industry occupations and 1.6 for State employees per the BLS news release USDL-23-0488, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—December 2022, dated March 17, 2023 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).

### Industry Wage Cost

<b>Position</b>	<b>Total Hour Contribution</b>	<b>Cost Per Hour (\$)</b>	<b>Hourly Rate with benefit (\$)</b>	<b>Total wage (\$)</b>
Administrative	8,835	22.18	31.05	274,343
Mining Engineer	107,118	46.49	65.09	6,971,914
Operations Manager	16,565	50.94	71.32	1,181,318
<b>Total</b>	<b>132,518</b>			<b>8,427,575</b>

The estimated total annual wage and compensation cost corresponding to 132,518 hours for industry respondents \$8,427,575.

### State Wage Cost

State’s labor wage cost is based on the hourly cost of work performed by a physical scientist using BLS State employee hourly wage of \$41.81/hour, and \$66.90/hour with benefits (1.6). Based on the total annual hours (215,281 hours x \$66.90/hour) annual wage cost is \$12,177,861.

Wage cost to all respondents for this ICR \$20,605,436 (\$8,427,575 + 12,177,861).

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. Annual Capital and Start-up Costs

The information collection requirements for Part 774 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

According to §774.13 and §774.15 each applicant for a revision or renewal must publish a newspaper notice announcing the application and seeking public comment once a week for four consecutive weeks. Total notices including revisions 1,600 and permit revisions 662 total 2,262 notices per year. The cost estimate per notice is \$300 for four weekly publications. Therefore, annual cost for revisions and renewals is \$678,600 (2,262 notices x \$300).

Section 774.17(b)(2) requires that each applicant for a transfer, assignment, or sale of permit rights is required to publish a one-time publication of \$100 per notice.

Therefore, the annual non-wage cost is \$713,600 (\$678,600 + \$35,000).

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.*

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSMRE does not anticipate extensive oversight review of State compliance with Part 774 in the absence of significant problems. OSMRE estimates that it will conduct normal and routine oversight review with annual review time amounting to 296 hours for this activity.

Federal Programs. Where OSMRE is the regulatory authority in Tennessee, Washington, and on Indian lands. Starting in 2022 Tribal lands in Oklahoma became part of OSMRE’s Federal Programs. OSMRE estimates receiving applications for 90 revisions, 8 application for renewals, and 1 application for transfer, assignment or sale of permits rights annually. The total burden for Federal program states will be 1,960.5 hours.

Based on the U.S. Office of Personnel Management Salary Table 2023-RUS located at, [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/RUS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/RUS_h.pdf), the annual average salary used to estimate the wage cost to the Federal Government is \$53.49 per hour for a GS 13 step 5 . Incorporating benefits using a 1.6 multiplier from the ratio between wages and benefits derived using BLS news release USDL-23-0488, the hourly wage cost to the Federal Government is \$85.58 per hour. The total annualized cost to the Federal government is \$193,111 as summarized below.

Section	Oversight Activity	Federal Program Activity			Oversight and Federal	Federal Government
	Annual Hours	Permitting actions	Hours per action	Annual Hours	Total Hours	Total \$ Cost @ \$85.58/hr
774.12	20	12	16	192	212	18,143
774.13	100	90	16	1440	1,540	131,793
774.15	100	8	40	320	420	35,944
774.17	76	1	8.5	8.5	85	7,232
Total	296	111		1960.5	2,257	193,111

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

This information collection request will decrease the burden estimate for this ICR largely to the decrease in permit revisions which corresponds to the population of active mining permits annual new permits. The downward trend in permits from fewer new application is expected to continue mirroring the decline in national mining output. There were however slight increases in burden per response by the State Regulatory Authority re-estimates from input from contacts identified in item 8.

404,165 hours currently approved

- 56,366 hours due to adjustments  
347,799 hours requested

This collection also includes a non-hour cost burden for newspaper advertisements of \$713,600, a reduction of \$149,886; the reduction was due to a fewer number of respondents required to file permit revisions.

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 under 30 CFR Part 774.

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 does not seek a waiver from the requirement to display the expiration date of the OMB approval of the information collection for 30 CFR Part 774. The OMB control number is 1029-0116 for 30 CFR Part 774 and is found in §774.9.

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

There are no exceptions to OMB's Certification for Paperwork Reduction Act Submissions.