

**Supporting Statement for Paperwork Reduction Act Submission**  
**U.S. Department of Justice, Antitrust Division**  
**Federal Coal Lease Review**  
**OMB Number: 1105-0025**

**PART A. JUSTIFICATION**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Federal Coal Leasing Amendments Act of 1976 (“FCLAA”) provides that no federal “coal lease may be issued, renewed, or readjusted ... until at least thirty days after the Secretary of the Interior notifies the Attorney General of the proposed issuance, renewal or readjustment. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary of the Interior as to whether such lease would create or maintain a situation inconsistent with the antitrust laws.” 30 U.S.C. § 184(l)(2). Regulations promulgated by the Department of Interior (“Interior”) provide that “[s]ubsequent to a lease sale, but prior to issuing a lease, [Interior] shall require the successful bidder to submit on a form or in a format approved by the Attorney General information relating to the bidder’s coal holdings ... for transmittal to the Attorney General.” 43 C.F.R. § 3422.3-4. Similar regulations apply to lease exchanges, readjustments, and transfers. 43 C.F.R. §§ 3435.3-7, 3451.2 and 3453.2-2. After careful consideration, the Department of Justice (“Department”) has determined that prospective lessees of federal coal leases need to complete the federal coal lease review forms in order for the Department to carry out its responsibilities under the FCLAA.

- 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.**

The information collected on the attached forms will be and has been used by the Antitrust Division of the Department in reviewing individual federal coal leases under FCLAA. Information about a prospective lessee’s coal holdings is critical to an analysis of the competitive effects of a lease issuance.

- 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.**

The collection involves the potential coal lessee providing coal holdings information on a form accessed on the website of the Antitrust Division of the Department. The form can be completed electronically or manually. Once completed, the potential lessee prints and then submits the form to the Interior's Bureau of Land Management ("BLM") office administering the coal lease transaction. Per existing regulations, the BLM office transmits the collected coal holding information to the Antitrust Division when the BLM determines it is time to seek the Department's advice on the lease transaction at issue. As the BLM determines when during the lease process it will seek the Department's advice on a particular transaction, the Department does not think it practicable to have the collected information submitted by the potential coal lessee directly to the Department, electronically or otherwise. The forms themselves seek limited, discrete types of information, *e.g.*, the amount of coal reserves the prospective lessee holds in specific geographic regions of the United States. Given the discrete amount of information sought by the forms, the limited number of submissions per year, and the ease of extracting from the forms the information necessary for its antitrust review, the Department does not believe receiving the collected information directly from potential lessees electronically would enhance the Department's review of the collected information or reduce the burden on the person completing the 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.**

The Department of Energy and Interior have advised the Department that, to the best of their knowledge, information similar to that requested by these forms - current, detailed, and company-specific information regarding an individual coal company's coal reserves - does not exist elsewhere in the federal government.

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

For the most part, the coal companies that constitute the prospective federal coal lessees that will be completing these forms are not small businesses. However, to the extent that some of the coal companies seeking to obtain federal coal leases are small businesses, it should not be a hardship for those companies to provide information regarding the amount and location of their coal holdings in the manner requested by these forms.

**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.**

These forms are the only practicable method of collecting information regarding a prospective federal coal lessee's coal holdings. If the Department did not have access to the coal reserve information requested by these forms, the Department would not be able to perform its responsibilities under the FCLAA.

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 only circumstance in which a prospective federal coal lessee would have to report the information sought by these forms more than once per quarter, would be in the unlikely event that the coal company was seeking to obtain federal coal leases more than once per quarter.

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 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 3 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.**

In developing the reporting criteria for these forms, the Department consulted a number of outside sources. First, the Department contacted a cross-section of coal reserve holders in the West and inquired as to how they classified their coal holdings. The criteria adopted by the

Department appear to be consistent with the criteria they use. The companies contacted were: Exxon U.S.A., Northern Coal Company, Peabody Coal Company, Rocky Mountain Energy, Utah International, Inc., Utah Power & Light Company, and Western Slope Carbon, Inc. Second, the Department formulated the criteria on the form entitled “Western Federal Coal Lease Form” in conjunction with ICF, Inc., a consulting firm that had done extensive work on coal reserve information. ICF's participation in this project was funded by Consolidation Coal Company, but the company did not participate in the formulation of the criteria. Since these forms have been in use, the Department has continued to consult informally with companies about the clarity and other aspects of the forms. In addition, both forms include an estimate of the respondent’s burden in completing the forms and invite any comments that the respondents might have regarding the collection of information. Thus far, the Department has not received any suggestions pursuant to this request detailing any means of further minimizing the burden imposed.

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

There are no payments made to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

Interior, the agency responsible for federal coal leasing, will direct prospective lessees, as to where to find the forms. Interior will transmit the completed forms to the Department for its review. The information will be transmitted in a sealed envelope, and the Department will accord it the fullest protection from disclosure permitted by law. The Department believes that the information qualifies for the exception to disclosure under the Freedom of Information Act that applies to “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4).

**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.**

This collection does not request information of a sensitive nature.

**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’.**

The total estimated annual reporting burden is 20 hours. This estimate is based on an estimate of 10 potential respondents and two hours per response.

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

There are no additional cost burdens to respondents.

**14. Provide estimates of annualized costs 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. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The estimated annual cost to the Federal government is approximately \$400. This estimate is based on an estimated 10 respondents and .5 hours to collect and process each information collection at an hourly rate based on the General Schedule salary table for the Washington, DC locality pay area.

**15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.**

There are no program changes or adjustments to this collection.

**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 to publish this information. This information is only for internal use to evaluate the competitive impact of issuances, transfers and the exchange of federal coal leases to determine whether such a lease transfer is consistent with the antitrust laws.

**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 Antitrust Division will display the expiration date on the form.

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

Not applicable. The Antitrust Division does not request any exception to the certification in Item 19 of OMB 83-I.

**PART B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable. This information collection does not employ statistical methods.