

# Supporting Statement for Paperwork Reduction Act Submission for 30 CFR Part 874 - General Reclamation Requirements

**OMB Control Number 1029-0113**

**Terms of Clearance:** None

## **General Instructions**

*A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, 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 in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. 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 (OSM) submitted an information collection clearance package to request authority to collect information under 30 CFR Part 874, General Reclamation Requirements, based on the proposed Enhancing Abandoned Mine Land (AML) Reclamation rule published June 25, 1998 (63 FR 34768). The Office of Management and Budget approved this collection and assigned it with clearance number 1029-0113. This information collection package applies to 30 CFR Part 874, albeit, subpart 874.17 is the only section that has an information collection requirement.

Part 874 establishes land and water eligibility requirements, reclamation objectives and priorities, and reclamation contractor responsibility for surface coal mining and reclamation operations. Section 30 CFR 874.17, titled, "AML Agency Procedures for Reclamation Projects Receiving Less than 50 percent Government Funding" requires consultation between the AML agency and the appropriate Title V regulatory authority on the likelihood of removing coal under a Title V permit. It

requires concurrences between the two agencies on the AML project boundary and the amount of coal that would be extracted under the AML reclamation project. Also, section 874.17 requires compliance with 30 CFR Subchapter R and related provisions to insure that adequate environmental safeguards are considered and followed during AML reclamation projects.

## Specific Instructions

### A. Justification

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

Three sections in the Surface Mining Control and Reclamation Act of 1977 (SMCRA) outline the eligibility requirements for coal sites being considered for funding under the AML program. Section 404 of SMCRA as originally enacted establishes eligibility criteria for lands and water as those mined for coal or affected by coal mining or other coal mining processes and left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing responsibility under State or other Federal laws.

Amendments made to SMCRA at Section 402(g)(4)(B)(I) and 402(g)(4)(B)(ii) on November 5, 1990, established additional sites that are eligible for funding. Section 402(g)(4)(B)(I) provides that sites on which surface coal mining occurred during the period beginning on August 4, 1977, and ended on or before the date the State established a regulatory program pursuant to Section 503 of SMCRA and for which funds available for reclamation pursuant to a bond or other financial guarantee or other source are not sufficient to reclaim the site are eligible under the AML program. Section 402(g)(4)(B)(ii) provides that those sites on which the surface mining occurred during the period beginning on August 4, 1977, and ending on or before November 5, 1990, and the surety of such mining operation became insolvent during this period are also eligible for AML funds if funds from the insolvency proceedings or any other financial guarantee or other source are insufficient to reclaim the site as of November 5, 1990. Sites affected by past coal mining or coal processing must meet one of these three sections to be funded from the AML fund.

In order to accomplish more reclamation of abandoned mine lands at no additional cost to the government, OSM amended its rules dealing with the financing of AML Reclamation Fund projects that involve the incidental extraction of coal. Eligible abandoned mine lands sometimes contain

recoverable coal that was either left in the ground when the site was abandoned or that remains at the site in the form of coal refuse or other waste. While this coal may have some market value, it is often so marginal that coal mine operators are not willing to take on the financial burden of mining and reclaiming the site as a permitted operation. However, if such incidental coal could be recovered and sold as an integral part of an approved AML reclamation project, the added revenue from the sale could be used to offset some of the reclamation cost.

Consistent with the priorities of the AML program, AML agencies will work in partnership with contractors to leverage finite AML Reclamation Fund dollars to accomplish more reclamation. To offset the reduction in government funding, the contractor will be allowed to sell coal found incidental to the project and recovered as part of the reclamation.

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.]*

OSM, the 24 State regulatory authorities and 3 Indian tribes with approved reclamation programs will use the information collected under 30 CFR 874.17 to determine whether coal can be recovered from AML projects. A portion of the revenues from the sale of this coal will be applied to reclamation costs thereby reducing the burden on the AML Reclamation Fund. Also, lands will be reclaimed that may otherwise remain a potential danger to the public health and safety.

OSM and the regulatory authorities have used the information collected under 30 CFR 874.17 to conduct numerous reclamation projects involving the incidental extraction of coal and offset reclamation costs through the sale of that coal.

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.].*

Use of automated methods to collect the information required under 30 CFR Part 874 generally is not practical. Some of the documentation results from discussions between the Regulatory and AML program staffs that may be in notation form. The remaining documentation is inspection reports in electronic or paper format. Since this information is maintained by the State regulatory authority, OSM cannot require recordkeeping to be conducted electronically.

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 information requested through 30 CFR Part 874 is collected once and is unique to each person or site. Duplication is minimal to nonexistent. OSM is not aware of any other federal agency that collects this information.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

There are no special provisions for small businesses or other small entities since respondents are State regulatory authorities and Indian tribes with approved reclamation programs.

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.*

Failure to collect the information requested under 30 CFR Part 874.17 would impair the ability of OSM, State regulatory authorities and Indian tribes to reduce the Federally funded portion of the reclamation costs. Revenues from coal mined incidental to reclamation would not be applied to the cost of reclamation. It is likely that many AML projects would not be reclaimed or would be reclaimed at a much later date, funded entirely from the AML Reclamation Fund. In addition, the coal, a valuable and needed resource, could be lost.

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.*

No collection of information under 30 CFR Part 874 is inconsistent with the guidelines at 5 CFR 1320.5(d)(2) as summarized in the instructions for this item of the supporting statement.

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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]*

*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 April 2007, representatives of the AML programs in Kentucky and Indiana were consulted regarding the number of projects completed under the Enhancing AML Rule which implemented provisions of 874.17, and the burden hours associated with these projects. Burden hours and costs in this information collection package have been modified to reflect the estimates obtained from these two States that are actively reclaiming lands under the Enhancing AML Reclamation rule. Point of contacts were:

Steve Hohmann, Director  
Division of Abandoned Mine Lands  
Department for Natural Resources  
2521 Old Lawrenceburg Road  
Frankfort, Kentucky 40601  
(502) 564-2141  
Fax: (502) 564-6544  
E-mail: [steve.hohmann@ky.gov](mailto:steve.hohmann@ky.gov)

Steve Herbert, Assistant Director-Restoration  
Department of Natural Resources  
Division of Reclamation  
R.R. #2, Box 129  
Jasonville, IN 47438-9517  
(812) 665-2207  
Fax: (812) 665-5041  
E-mail: [sherbert@dnr.state.in.us](mailto:sherbert@dnr.state.in.us)

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.

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

Not applicable. OSM provides no payments or gifts to respondents as allowed by SMCRA.

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.*

Not applicable. There are no questions 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 in Item 13 of OMB Form 83-I.*

*\* 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 in Item 14.*

#### Estimated Information Collection Burden

##### a. Burden Hour Estimates for Respondents

Based on data obtained from Kentucky and Indiana staff, both of whom are actively conducting reclamation under the Enhancing AML Reclamation rule, they estimate that the State or Tribal regulatory authority will need an average of 70 hours per project to process the information required by 30 CFR 874. This total can be broken down as follows: 32 hours to review information during the consultation phase with their Title V counterparts; and 38 hours to inspect the project area, prepare and file the documentation, and to determine the special environmental and site reclamation requirements.

In 2007, 23 projects were completed. Therefore, 70 hours per project x 23 projects = 1,610 hours needed to process all projects annually.

##### b. Estimated Annual Wage Cost to Respondents

Estimating an average of 70 hours per project at \$45 per hour, the cost is \$3,150 per project. Total cost for the 23 projects is \$72,450.

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 shown in Items 12 and 14).*

*\* 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]. 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.*

#### Total Annual Non-Wage Cost Burden to Respondents

##### a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 874 do not involve any capital or start-up costs apart from expenditures associated with customary business practices or general administration of a regulatory agency.

##### b. Operation and Maintenance Costs

No significant non-wage operation or maintenance costs are associated with compliance with the information collection requirements of 30 CFR 874.

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

## Estimate of Annualized Cost to the Federal Government

Oversight: In keeping with the current guidance concerning oversight of State program implementation, which de-emphasizes process reviews, OSM does not anticipate conducting any significant oversight review of State compliance with the requirements of 30 CFR § 874 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and that each review requires an average of 10 hours, the annual cost to the Federal government for this oversight activity at \$45 per hour is an estimated \$450.

Federal Programs: Based upon data collected in 2007, OSM did not conduct any AML activity in Federal program states as authorized by 870.17.

15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

Based on information submitted by the two State AML staff identified in item 8, this information collection request will reduce the estimated burden per project from 73 hours to 70 hours. Also, based on the State input and OSM estimates, there were 23 projects completed in 2007, an increase of 7 from prior estimates. Therefore, this information collection request increases the estimated burden for this Part from 1168 hours to 1610 hours, an increase of 442 hours as demonstrated below:

1,168 hours currently approved
+ <u>442 hours</u> due to an increase in use
1,610 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.*

Not applicable. OSM has no plans to publish the information collected.

17. *If seeking approval to not display the expiration date for OMB approval of the*

*information collection, explain the reasons that display would be inappropriate.*  
Not applicable. OSM is not seeking a waiver from the requirement to display the expiration date of the OMB approval of the information collection.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

Not applicable. There are no exceptions to the certification statement in Item 19 of OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

*The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results.*

Statistical methods are not employed for collection of the information required under 30 CFR Part 874 since this information is unique to each request and is required to obtain a benefit.