



April 22, 2019

Via email: OIRA_submission@omb.eop.gov

Office of Information and Regulatory Affairs

Attn: OMB Desk Officer for DOL-OWCP

Office of Management and Budget

Room 10235

725 17th Street NW

Washington, D.C. 20503

**RE: Request for Public Comment
Proposed Collection of Information**

Dear Sir/Madam:

Reading Anthracite Company (“RAC”) appreciates the opportunity to submit comments to the Office of Management and Budget (“OMB”) in response to the published second Notice and Request for Comments in the Federal Register on March 22, 2019 regarding the sponsored information collection request proposal entitled “Application for Self-Insurance Under the Black Lung Benefits Act”. The Information Collection Request is hereinafter referred to as “ICR”.

RAC submitted comments dated December 29, 2017 in response to the initial notice and request for comments from Office of Workers’ Compensation Programs (“OWCP”), Division of Coal Mine Workers’ Compensation on the “Application for Self-Insurance Under the Black Lung Benefits Act”.

Recommendation:

For the reasons set forth in these comments and in the previous comments submitted by RAC, RAC recommends that the current process be maintained. Further, RAC recommends that OWCP and OMB not adopt the burdensome and potentially costly ICR.

Background:

RAC is a Pennsylvania corporation based in Pottsville, Schuylkill County, Pennsylvania. RAC is located in the anthracite coal region. RAC has been self-insured for its obligations under the Black Lung Benefits Act since approximately 2007. Currently, RAC renews its approval



every two years. The approval process is efficient and not burdensome to RAC. RAC strongly believes that the current renewal process shall be maintained in its current form.

Proposed ICR:

As set forth in the Request for Comments, OMB is requesting comments on the proposed ICR. These comments will address the areas of particular interest to OMB together with an overview of comments.

- I. The proposed collection of information is not necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.*

As long as RAC has participated in the black lung self-insurance program, it has worked effectively and efficiently. Despite the renewal and application program working effectively, OWCP now proposes that entities like RAC complete certain forms and to gather certain information under the guise that it is all of the sudden necessary in order to implement the program.

The supporting statement underestimates the impact on coal operators. In the supporting statement, OWCP states that it is necessary to evaluate an operator's financial capacity and potential claims liability in order to determine if an operator can be, or should be permitted to remain, self-insured. Further, OWCP claims that it is required to analyze the nature of operator's business, the business structure, detailed financial information, actuarial predictions, historic rates of payments, and current claims information.

The proposed ICR goes overboard and it is clearly and completely unnecessary. The potential costs to operators far outweigh any benefits and further, the proposed information is not necessary for OWCP to make its determinations as set forth in the regulations.

However, RAC will address the proposed additional requirements as follows:

1. Certified Financial Statement.

This requirement would require entities to engage the services of outside accountants to prepare and certify a consolidated financial statement. This will cause the entities additional time and money in providing the information to the accountant, working with the accountant, reviewing the certified financial statement, and finalizing the consolidated financial statement.



With that being said, most entities most likely already prepare financial statements. Operators should be permitted to submit their most recent financial statement maintained in the ordinary course of business that are certified by a representative of the operator and/or an outside accounting firm.

2. Report of Claims Information.

For all claims submitted to OWCP, OWCP should already have this information on file and its computer system. This requirement is repetitive and places an additional burden on companies for something that OWCP should already be doing in the first place. Further, this requirement is duplicative in that it is information that should be readily available to OWCP.

3. Financial Summary.

The most recent financial statement maintained in the ordinary course of business (*see subsection 1 above entitled "Certified Financial Statement"*) should be sufficient and this new form is overly burdensome and duplicative to operators such as RAC, which have limited office staff.

4. Most Recent Certified Actuarial Report that Outlines Existing and Future Projected BLBA Liabilities.

This requirement would place a substantial burden and cost on any company under the self-insurance program. First, the existing liabilities for a company under the self-insurance program should already be known by OWCP. Second, all future projected BLBA liabilities under the self-insurance program are **subject to significant speculation**. Lastly, all existing claims of an entity under the self-insurance program should already be known by OWCP and future BLBA liabilities calls for mere speculation and therefore, this requirement causes a significant burden in time, effort and money on an operator. Of all of the proposed requirements, this requirement is the most obtrusive and costly and it will create the greatest hardship on coal mine operators.

5. Concerns of Confidentiality.

The anthracite coal business is highly competitive and entities in the industry are constantly attempting to obtain a competitive advantage over its competitors. Now, RAC understands that there are exceptions to the Freedom of Information Act. However, RAC and any operator would



need assurances that the information, specifically financial related information, would not be disclosed and would remain confidential. Further, redactions should be permitted by the operators as long as the requested information is provided.

II. *The agency's estimate of the burden of proposed collection of information, including the validity of the methodology and assumptions used, is grossly inaccurate.*

OWCP's estimate of the burden is grossly inaccurate. In one statement, OWCP states "the information requested in this ICR is not duplicative of any information available elsewhere". At the same time, the proposed ICR requires operators to complete a financial summary form and submit a certified financial statement, which would contain roughly the same information. This demonstrates the duplicative nature of the proposed ICR and why RAC believes that a redacted financial statement should be sufficient. Further, the proposed ICR requests current claim information that should already be known and/or readily accessible to OWCP.

However, OWCP inaccurately estimates the burden as extremely minimal because this is information that coal mine operators "routinely maintain". **OWCP fails to consider the time, effort and man hours to simply compile the information in the requested format.**

Further, OWCP wrongfully states that the proposed ICR does not impose additional burdens on small business or other small entities.

OWCP's assertions are incorrect as follows:

1. Some of the information requested is submitted in different formats to other governmental agencies. The requirement will require coal mine operators to submit and compile potentially similar information already submitted to various governmental agencies in a completely different format.
2. Small coal mine operators are most likely operating with a thin administrative staff. Any additional requirements has the likelihood to place a higher burden on small operators where the administrative staff already has a full workload and could require additional costs such as overtime, the need to hire additional staff, and/or the need to hire outside consultants such as accountants to perform the duties.
3. Lastly, the Agency grossly understates the cost of complying with the new



requirements. For example, the Current and Future BLBA Liabilities Actuarial Report alone will most likely cost more than the projected costs.

III. The proposed collection of information will not enhance the quality, utility and clarity of the information to be collected.

OWCP states that if "the information were not collected, self-insurance authorizations could not be granted (or renewed) as required by the statute". Ironically, OWCP has been renewing self-insurance authorizations without requiring this additional information.

The proposed ICR will not enhance the quality, utility and clarity of the information to be collected. First, the proposed collection of information places additional burdens on coal mine operators already under the self-insurance program.

Additionally, the information can be provided in less obtrusive and more efficient ways that would not require certified and/or actuarial reports, which places additional costs on the coal mine operators. OWCP should only require the information required under its governing law and regulations and in a method that is easier, time- and cost-efficient, and more efficient for coal mine operators under the self-insurance program to complete.

IV The proposed collection of information will not minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

The methods to submit the proposed ICR such as permitting electronic submissions of responses is a step in the right direction. However, OWCP should consider a fully automated system where coal mine operators can log onto the OWCP's website and complete only the information necessary for the program to be implemented. Provided however, the system would have to maintain confidentiality and ensure that confidential information is not released to the public. This will permit the coal mine operators to simply update any information from the previous year rather than having to print out, complete new forms, and re-submit new forms.



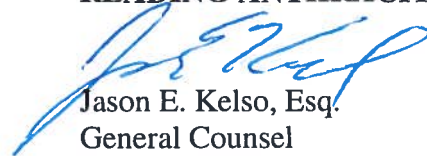
Conclusion:

For the reasons set forth herein, the proposed ICR is unnecessary and places an additional burden and costs on coal mine operators. If OWCP deems it necessary to collect additional information, it should consider these comments and develop a system that is easier, more user friendly, more time-efficient, and less costly for coal mine operators.

Thank you for the opportunity to submit comments

Very truly yours,

READING ANTHRACITE COMPANY



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