

**Supporting Statement for Collections of Information and  
Recordkeeping Requirements under 30 CFR Parts 816 and 817 – Permanent Program  
Performance Standards – Surface and Underground Mining Activities**

OMB Control Number 1029-0047

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.*

**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.*
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.]*
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.].*
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.*
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.*

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.*
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.*
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.*

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*
10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*
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.*
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.*
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.

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.*
15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*
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.*
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.*
18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

## Introduction

We, the Office of Surface Mining Reclamation and Enforcement (OSM), are submitting this information collection clearance package to request authority to collect information and require retention of records under 30 CFR Part 816, Permanent Program Performance Standards—Surface Mining Activities, and 30 CFR Part 817, Permanent Program Performance Standards—Underground Mining Activities. OMB previously reviewed and approved this consolidated collection of information and recordkeeping and assigned it clearance number 1029-0047. We are making this new request because a final rule, the Excess Spoil, Coal Mine Waste, and Buffers for Perennial and Intermittent Streams rule (the “Excess Spoil final rule”) that we are publishing will result in programmatic changes to the currently approved burden for these parts.

The regulations in 30 CFR Part 816 set forth the minimum environmental protection performance standards for surface coal mining activities. They primarily implement section 515 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), which sets forth performance standards for surface coal mining operations; section 517(b)(2) of SMCRA, which sets forth water monitoring requirements; and section 517(d) of SMCRA, which requires the posting of signs and markers at the mine site.

The regulations in 30 CFR Part 817 set forth the minimum environmental protection performance standards for underground coal mining activities. They primarily implement section 516 of SMCRA, which directs the Secretary to adopt performance standards for underground coal mines and includes additional requirements related to subsidence resulting from those operations; section 517(b)(2) of SMCRA, which sets forth water monitoring requirements; section 517(d) of SMCRA, which requires the posting of signs and markers at the mine site; and section 720 of SMCRA, which establishes requirements pertaining to replacement of certain water supplies adversely impacted by those operations and correction of subsidence-related material damage to protected structures.

The new Excess Spoil final rule removes the requirement previously located in 30 CFR 816.57(a) and 817.57(a) that the regulatory authority make certain findings before approving waivers from the prohibition on disturbances within 100 feet of an intermittent or perennial stream. Instead, the final rule establishes new permit application and regulatory authority finding requirements in 30 CFR 780.28 and 784.28 that would apply to all proposed surface disturbances in or within 100 feet of a perennial or intermittent stream. Those findings replace the ones previously found in 30 CFR 816.57(a) and 817.57(a). The new final rule consolidates the stream buffer zone marker requirements in existing 30 CFR 816.57(b) and 817.57(b) with equivalent requirements in 30 CFR 816.11(e) and 817.11(e).

The new final rule also removes the requirement in 30 CFR 816.43(b) and 817.43(b) that, before approving diversion of a perennial or intermittent stream, the regulatory authority make the finding relating to stream buffer zones that the diversion will not adversely affect water quantity or quality or related environmental resources of the stream. It replaces that requirement with a requirement that the regulatory authority find that the diversion has been designed and will be

located, constructed, and maintained using the best technology currently available to minimize adverse impacts on fish, wildlife, and related environmental values to the extent possible. It also adds a requirement that a qualified registered professional engineer separately certify the design and construction of all stream-channel diversions and stream restorations. (The rule previously applied the certification requirement only to stream-channel diversions.) The design certification must certify that the design meets the design requirements of 30 CFR 816/817.43 and any design criteria established by the regulatory authority. The construction certification must certify that the stream-channel diversion or stream restoration has been constructed in accordance with the requirements of 30 CFR 816/817.43 and the approved design.

While the wording of the final rule differs somewhat from what we proposed on August 24, 2007 (72 FR 48890), we do not anticipate that the revisions will result in any changes in the information collection requirements for the proposed rule as reviewed by OMB in the Fall of 2007. Several commenters on the proposed rule expressed concern that the proposed alteration in scope of the stream buffer zone rule in 30 CFR 816.57 and 817.57 from perennial and intermittent streams to waters of the United States would increase the burden on mine operators and state regulatory authorities, contrary to our statement in the preamble to the proposed rule that we did anticipate any such change. However, we decided not to adopt the proposed change as part of the final rule, so the comment is now moot. The scope of the stream buffer zone rule remains perennial and intermittent streams, not waters of the United States.

The new final rule would result in a programmatic reduction of 29,450 burden hours and \$38,500 in operation and maintenance cost savings.

The responses to some items in the instructions for the supporting statement are identical for each section; those responses appear on pages 9-11 of this document. Except as otherwise noted in the supporting statements for individual sections, the respondents and potential respondents consist of 2,933 surface mine entities and 1,831 underground mine entities, together with 24 state regulatory authorities. Of these operations, approximately 792 surface mines and 606 underground mines are currently producing coal.

The following table summarizes the information collection requirements and changes to the current collection burden for 30 CFR Parts 816 and 817 resulting from the programmatic changes in the new final rule that we intend to publish and the one adjustment for duplication identified during the review (30 CFR 816/817.81).

INFORMATION COLLECTION SUMMARY FOR 30 CFR PARTS 816 AND 817

Section	Industry Responses	Industry Hours per Response	State Responses	State Hours per Response	Total Hours Requested	Currently Approved Burden Hours	Changes to Burden Hours
.41	68,900	6.5	0	0	447,850	447,850	0
.43	616	16	270	5	11,206	4,480	6,726
.49	17,592	6	0	0	105,552	126,144	(20,592)
.57	0	0	0	0	0	30,800	(30,800)
.62	38,480	4	0	0	153,920	101,010	52,910
.64	962	4	0	0	3,848	3,848	0
.67	150,072	1.2	0	0	180,086	180,086	0
.68	962	12	0	0	11,544	11,544	0
.71	9,072	8	0	0	72,576	475,136	(402,560)
.81	0	0	0	0	0	15,528	(15,528)
.83 & .87	7,764	3	0	0	23,292	23,292	0
.116	880	80	2	100	70,600	70,600	0
817.121	80	4	0	0	320	320	0
817.122	1,638	.5	0	0	819	816	3
.131	335	16	331	.5	5,526	5,360	166
.151	481	11	0	0	5,291	5,291	0
<b>TOTALS</b>	<b>297,834</b>		<b>603</b>		<b>1,092,430</b>	<b>1,502,105</b>	<b>(409,675)</b>

Note: Under 30 CFR 816/817.41, the water monitoring reports required under the National Pollutant Discharge Elimination System (NPDES) are not counted as an OSM burden.

**SUMMARY OF CHANGES TO ICB FOR 30 CFR PARTS 816/817**

REASON FOR CHANGE	CHANGE IN HOURS
Program Change – Final Excess Spoil Rule	(29,450)
816/817.43	1,350
816/817.57	(30,800)
Program Change - Correction	(46,463)
816/817.49	(31,104)
816/817.81	(15,528)
817.122	3
816/817.131	166
Reestimate/Change in use	(333,762)
816/817.43	5,376
816/817.49	10,512
816/817.62	52,910
816/817.71	(402,560)
Net change to ICB	(409,675)



SUMMARY OF COSTS FOR PARTS 816/817

SECTION	TOTAL RESPONDENT NON-WAGE COST	TOTAL FEDERAL WAGE COSTS
.41	0	1,880
.43	30,800	4,230
.49	265,700	5,640
.57	0	0
.62	0	940
.64	0	940
.67	0	940
.68	0	1,880
.71	0	1,880
.81	0	0
.83	0	1,880
.116	44,000	1,880
.121	1,600	24
.122	4,914	0
.131	0	2,444
.151	24,050	0
TOTALS	371,064	24,558

## List of Items with Identical Responses

### A. Justification

3. The collection of information required under 30 CFR Parts 816 and 817 is unique to each applicant and mining area. Respondents are individual mining companies who maintain or submit reports, schedules, notification letters, etc. to state and federal regulatory authorities, landowners, or to newspapers as needed. Information collections normally do not involve use of any standard form, and the required information generally does not consist of numerical data or responses to multiple-choice questions. Generally, certification and monitoring reports are prepared and submitted electronically, while notices to landowners and newspapers are in paper form. OSM is currently assisting primacy states and the coal industry in developing and implementing electronic permitting systems.
4. The information requested under 30 CFR Parts 816 and 817 is unique to each person and site. Circumstances vary with each proposed coal mining site in which a permit application has been received. Thus, there is no available information that can be used in lieu of that supplied on each application. Information is usually collected quarterly or monthly, depending on state or federal regulations. OSM is not aware of any other federal agency that collects this information. OSM is the only federal agency charged with implementation of SMCRA with respect to performance standards for surface and underground mining activities. Duplication of such information is minimal to nonexistent.
5. There are no special provisions for small businesses or other small entities. Special provisions are not appropriate because the requested information is the minimum needed to ensure or document that mining and reclamation activities are being conducted in a manner that ensures protection of public health and safety and minimizes environmental disturbances.
6. Failure to collect the information requested under 30 CFR Parts 816 and 817, or collection at less frequent intervals, would impair the ability of OSM and state regulatory authorities to ensure that surface and underground coal mining operations are conducted safely and in an environmentally protective manner consistent with the purposes and requirements of the Act. Furthermore, the Act specifically requires submission of some of the requested information at the indicated frequency.
7. No collection of information under 30 CFR Parts 816 and 817 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. To determine the changes in respondent burden under 30 CFR Parts 816 and 817 that will result from adoption of the new Excess Spoil rule, we relied upon information

supplied by our Knoxville Field Office, which processes permit applications for and regulates mining operations on lands for which we are the regulatory authority in the Appalachian Region. We also contacted the following state regulatory authorities and a mining consulting firm that prepares mining permit applications. We supplied a concise description of the revisions along with a request for input on the associated information collection requirements and any other comments they wished to make regarding the clarity of the rules and potential burden.

Jim Pierce, Lead Permitting Engineer  
West Virginia Department of Environmental Protection  
Division of Mining and Reclamation  
1101 George Kostas Drive  
Logan, WV 25601  
Phone: 304-792-7250  
Email: [jpierce@wvdep.org](mailto:jpierce@wvdep.org)

Mark Carew  
Kentucky Department of Natural Resources  
Division of Mine Permitting  
#2 Hudson Hollow Complex  
Frankfort, KY 40601  
Phone: (502) 564-2320  
Email: [Mark.Carew@ky.gov](mailto:Mark.Carew@ky.gov).

Jim Canterbury  
Summit Engineering Inc.  
400 Allen Drive, Suite 100  
Charleston, WV 25302  
Phone: 304-342-1342  
Email: [jcanterbury@summit-engr.com](mailto:jcanterbury@summit-engr.com)

The persons listed above stated that many of the new requirements will not add appreciably to permittee or state regulatory authority workloads because similar requirements or reviews already exist under the programs implementing sections 401 and 404 of the Clean Water Act. They also noted that some of the new requirements were already being implemented as a matter of policy in Kentucky and West Virginia.

Mr. Carew noted that the revised finding for stream diversions may mean that engineers will have to certify compliance with vague requirements (protection of fish, wildlife, and related environmental values) outside their area of expertise. We have revised the rule to limit the scope of the certification to the design and construction requirements in the regulations and any design criteria established by the regulatory authority. The certification need not duplicate the finding required of the regulatory authority.

Respondents did not provide any further information regarding availability of data, the frequency of collection, and the clarity of instructions or the data elements reported.

For all other sections, we relied upon the data supplied by the respondents identified in item 8 of the renewal package approved by OMB in 2007.

9. Not applicable. OSM provides no payments or gifts to respondents.
10. No confidential information is solicited under 30 CFR Parts 816 and 817. However, with respect to information required under other regulations, the permit applicant has the right to request confidentiality for such information as analysis of the chemical and physical properties of the coal to be mined. Sections 507(b)(17), 508(a)(12), and 508(b) of SMCRA require that certain types of permit application information be kept confidential. The Archeological Resources Protection Act of 1979, 16 U.S.C. 470, requires that information on the nature and location of archeological resources on public lands and Indian lands be kept confidential.
11. Not applicable. There are no questions of a sensitive nature.
16. Not applicable. OSM has no plans to publish the information collected.
17. 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. Not applicable. There are no exceptions to the certification statement in Item 19 of OMB Form 83-I.

***Supporting Statement for 30 CFR 816.22/817.22***

These sections include one provision, 30 CFR 816/817.22(b), which have information collection implications. Under these sections, the operator must make certain demonstrations before using selected overburden materials as topsoil substitutes or supplements. However, this requirement is effectively subsumed by the permit application information requirements of 30 CFR 779/783.21(b), which requires that the results of the tests, analyses, and trials conducted under 30 CFR 816/817.22(b) be included in the permit application. Because 30 CFR Parts 779 and 783 have their own information collection authorities, we are not including a separate information collection burden estimate or request for 30 CFR 816/817.22.

***Supporting Statement for 30 CFR 816.41 and 817.41***

**A. Justification**

1. Section 517(b) of the Act provides that all mining permit holders must install, use, and maintain any necessary monitoring equipment or methods; evaluate the results of such methods; and provide such information relative to the operation as the regulatory authority deems reasonable and necessary. Our regulations at 30 CFR 816/817.41 implement these statutory requirements with respect to water monitoring. The rules require that ground and surface-water monitoring data be submitted in accordance with the monitoring plans specified in the permit application as required by 30 CFR 780.21 for surface mining and 784.21 for underground mining. Monitoring data must be submitted every 3 months or more frequently as prescribed by the regulatory authority until bond release or until the regulatory authority finds that monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan.
2. The data required under 30 CFR 816/817.41 is needed and used to monitor and determine the impact of the operation on water quality and the hydrologic balance, the protection of which is one of the requirements of SMCRA.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

According to our FY 2006 annual report, there are approximately 2,933 surface mining permits and 1,831 underground mining permits in the nation. We estimate that the average surface mine will have five sampling points (two for groundwater monitoring and three for surface-water monitoring). However, monitoring of one of the surface-water monitoring sampling points (the discharge) is also required by the NPDES permit issued under the Clean Water Act and is included in the information collection burden for the NPDES regulations. Therefore, only four sampling points are derived solely from OSM regulations. The annual burden for the average surface mine under 30 CFR 816.41 consists of 46,928 samples taken and analyzed (2,933 operations x 4 sampling points per operation x 4 samples taken per sampling point per year).

For underground mines, three sampling points are normally sufficient (one for groundwater monitoring and two for surface-water monitoring). Therefore, the annual burden for the average underground mine under 30 CFR 817.41 consists of 21,972 samples taken and analyzed (1,831 operations x 3 sampling points per operation x 4 samples taken per sampling point per year).

Therefore, for 30 CFR 816/817.41 combined, we estimate that a total of 68,900 samples will be taken and analyzed annually (46,928 for surface mines plus 21,972 for underground mines).

OSM estimates that sampling and analysis will require an average of **6.5 hours** per sample. The total burden for all respondents would be **447,850 hours** (68,900 samples taken and analyzed per year x 6.5 hours per sample).

Regulatory authority personnel are not required to review water monitoring reports apart from the inspections conducted under 30 CFR 840.11 and 842.11, which have their own information collection budgets. Therefore, the only information collection burden to state regulatory authorities under 30 CFR 816/817.41 is the time required to file the reports, which constitutes normal, customary business activities.

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining company executives found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) and hydrologists at <http://www.bls.gov/oes/current/oes192043.htm>, we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per	Cost Per Hour (\$)	Total Wage

	Response		Burden (\$)
Hydrologist	6	47.28	284
Operations Manager	.5	63.72	32
Total	6.5		316

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.41 is \$316. The total wage cost to all industry respondents is \$316 x 68,900 samples = \$21,772,400.

13. Total Annual Non-Wage Cost Burden to Respondents

None other than those associated with customary and usual business practices.

14. Estimate of 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 816/817.41 in the absence of any indication of programmatic problems. However, if we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/hydrologist reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under Federal regulatory programs, on Indian lands, and on Federal lands in states without a cooperative agreement. Regulatory authority personnel are not required to review water monitoring reports apart from the inspections conducted under 30 CFR 840.11 and 842.11, which have their own information collection budgets. Therefore, the only information collection burden for OSM under 30 CFR 816/817.41 is the time required to file the reports, which constitutes normal, customary business activities.

Total Federal Cost

\$	1,880	Oversight
+ \$	_____	0 Federal Programs
\$	1,880	Total Federal Cost

15. The total approved burden for 30 CFR 816/817.41 is **447,850** burden hours. Because the new final rule does not impact 30 CFR 816/817.41, we are not requesting any changes in the approved burden for those sections.

16. See list of items with identical responses.



17. See list of items with identical responses.
18. See list of items with identical responses.

## *Supporting Statement for 30 CFR 816.43 and 817.43*

### **A. Justification**

1. This section includes two provisions with information collection implications.

Under the first, 30 CFR 816/817.43(b)(1), the regulatory authority must make the stream buffer zone finding required by 30 CFR 816/817.57 as a prerequisite for approval of diversions of intermittent or perennial streams within the permit area. The new final rule revises this provision by removing the reference to the stream buffer zone rule and replacing it with a requirement that the regulatory authority find that the stream-channel diversion has been located and designed to minimize adverse impacts on fish, wildlife, and related environmental values to the extent possible using the best technology currently available. This requirement is more consistent with the language of section 515(b)(24) of the Act, which concern protection of fish, wildlife, and related environmental values.

Under the second provision, 30 CFR 816/817.43(b)(5), as revised by the new final rule, a qualified registered professional engineer must separately certify both the design and construction of all stream-channel diversions of perennial and intermittent streams and all stream restorations. The design certification must certify that the design meets the design requirements of 30 CFR 816/817.43 and any design criteria established by the regulatory authority. The construction certification must certify that the stream-channel diversion or stream restoration meets all construction requirements of 30 CFR 816/817.43 and is in accordance with the approved design. The statutory authority for these regulations resides in the hydrologic protection requirements of sections 515(b)(10) and 516(b)(9) of SMCRA; the fish, wildlife, and related environmental value protection requirements of sections 515(b)(24) and 516(b)(11) of SMCRA; and section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act.

2. The findings that the regulatory authority must make before approving a stream-channel diversion are needed to ensure that consideration has been given to the environmental protection requirements of the Act. Regulatory authorities rely in part upon the certification requirements of 30 CFR 816/817.43 to ensure that stream-channel diversions and stream restorations are designed in accordance with all applicable requirements and are constructed in accordance with approved plans to be stable and environmentally sound.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.

6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

We estimate that approximately half of all new permits and major revisions involve stream-channel diversions, which means that state and federal regulatory authorities approve approximately 280 stream-channel diversions each year, of which 270 are in states with primacy. Based on our experience with the similar findings required under the existing stream buffer zone rules in 30 CFR 816/817.57(a) and information supplied by the respondents listed in item 8, we estimate that the regulatory authority will need an average of 5 hours to prepare the finding required under revised 30 CFR 816/817.43(b) (1). Therefore, we estimate that the annual information collection burden on the 24 state regulatory authorities under the new final rule will total **1,350 hours** (270 applications for stream-channel diversions per year x 5 hours per finding per diversion). The new final rule moves the burden associated with the regulatory findings required for stream-channel diversions from 30 CFR 816/817.57 to this section.

Preparation by a qualified registered professional engineer of certified design and construction reports for each stream-channel diversion under 30 CFR 816/817.43(b)(5) will require an average of 16 hours. Each stream-channel diversion requires two certification reports, one for the design and one for the construction. In addition, the new final rule requires design and certification reports for stream-channel restorations. Based on our experience, we estimate that approximately 10% of the stream-channel diversions will be removed in favor of stream-channel restorations.

As noted in the first paragraph of item 12.a., state and federal regulatory authorities approve approximately 280 stream-channel diversions each year, each of which requires both a design and a construction certification report. On that basis, we estimate that there will be approximately 28 stream-channel restorations (10% of 280 stream-channel diversions) each year. Accordingly, we estimate that the annual information collection burden on mine operators and permittees for preparation of stream-channel diversion and

restoration certification reports under 30 CFR 816/817.43(b)(5) will total **9,856 hours** [(280 stream-channel diversions per year + 28 stream-channel restorations per year) x 2 certifications (one design + one construction) per diversion or restoration x 16 hours per certification].

Design and construction certification reports for stream channel diversions do not require regulatory authority review apart from the normal permit application review process and the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, the only information collection burden to state regulatory authorities under 30 CFR 816/817.43(b)(4) is the time required to file the reports, which constitutes normal, customary business activities.

The total information collection burden for 30 CFR 816/817.43 is thus **11,206 hours** (1,350 hours for state regulatory authorities + 9,856 hours for mine permit applicants and operators).

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	18.40	18
Engineering Technician	4	30.21	121
Mining Engineer	10	46.82	468
Operations Manager	1	63.72	64
Total	16		671

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.43 is \$1,341 (\$671 x 2 certifications per diversion or restoration). The total wage cost to all industry respondents is \$413,028 [\$1,341 x (280 stream-channel diversions per year + 28 stream-channel restorations per year)].

In addition, it takes 5 hours for each state regulatory authority to prepare the findings for each diversion or restoration under this section.

Using U.S. Department of Labor’s Bureau of Labor statistics figures for state employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier

from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Therefore, the estimated total annual wage cost for state regulatory authorities to prepare the findings reports for 816/817.43 is \$31 per hour x 5 hours per diversion or restoration finding = \$155 per diversion or restoration. The total wage cost to all state regulatory authorities is \$155 x 298 (270 diversions + 28 restorations) = \$46,190.

Therefore, we estimate that the total wage cost to all respondents is \$413,028 for industry + \$46,190 for state regulatory authorities = \$459,218.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 816/817.43 do not involve any capital or start-up costs unique to these requirements. Design and construction of stream-channel diversions and restorations requires only engineering expertise and equipment that constitutes customary and usual business practices. The same is true for state regulatory authority review of permit applications containing stream-channel diversions. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine permit applicants and operators for compliance with the information collection requirements of 30 CFR 816/817.43 at \$50 per certification, for a total annual cost of **\$30,800** (616 certifications per year x \$50 per certification). These costs consist primarily of fuel and equipment maintenance expenses for travel to the mine, drafting and office supplies, and copying expenses. There are no unique non-wage operation and maintenance costs associated with the findings that the regulatory authority must make.

14. 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 816/817.43 in the absence of any indication of programmatic problems. However, if we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier

for benefits; <http://www.opm.gov/oca/08tables/html/gsh.asp>). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement. As noted in item 12.a. above, we estimate that we approve about 10 stream-channel diversions each year in states and on lands for which we are the regulatory authority. As also noted in item 12.a., each approval requires a finding that involves an average of 5 hours of staff time. At an average salary of \$47 per hour, the annual wage cost to the federal government to prepare the diversion findings reports would be \$2,350 (10 diversions x 5 hours to prepare the findings x \$47 per hour).

Total Federal Cost

\$	1,880	Oversight
+ \$	<u>2,350</u>	Federal Programs
\$	4,230	Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.43 is 4,480 hours. For the reasons discussed in items 1 and 12 above, we are now requesting 11,206 burden hours for these sections, an increase of 6,726 hours as a result of adjustments and the programmatic changes in the new final rule. For state regulatory authorities, the burden increase is a transfer from the burden for sections 816/817.57, while for permit applicants, the burden increase is a result of a reestimate of the cost of preparing certifications.

	4,480	Hours currently approved by OMB
	5,376	Hours due to an adjustment
+ <u>1,350</u>		Hours due to a programmatic change
	11,206	Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 816.46 and 817.46***

These sections include a provision at 30 CFR 816/817.46(b)(3) with information collection implications. Under that provision, a qualified registered professional engineer or qualified registered professional land surveyor must certify, upon completion of construction, that a siltation structure has been constructed as designed and approved. Since virtually all siltation structures are impoundments, this requirement is effectively subsumed by the impoundment certification requirements of 30 CFR 816/817.49(a)(11), which has its own information collection budget. Therefore, we are not including a separate information collection burden estimate for 30 CFR 816/817.46.

The proposed rule that we plan to publish would revise these sections by removing paragraph (b) (2), but that change would not alter any information collection requirements.

***Supporting Statement for 30 CFR 816.49 and 817.49***

**A. Justification**

1. Section 515(b)(8)(B) of the Act requires that permanent water impoundments constructed as part of surface mining operations be stable with an adequate margin of safety compatible to that required for dams constructed under P.L. 83-566, the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006). Although sedimentation ponds are not permanent structures, section 515(b)(10)(B)(ii) of SMCRA requires a certification by a qualified registered engineer or a qualified registered professional land surveyor in any state which authorizes land surveyors to prepare and certify such maps or plans that the sedimentation pond was constructed as designed and as approved in the reclamation plan. Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. The regulations at 30 CFR 816/817.49 implement these statutory provisions in part.

Under 30 CFR 816/817.49(a)(11), inspections must be made regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond. After each inspection, the qualified registered professional engineer or a qualified registered professional land surveyor must promptly prepare and provide to the regulatory authority a certified report on the conditions of the structure. In addition; a copy of the report must be maintained at or near the mine.

2. The inspections and reports required under 30 CFR 816/817.49(a)(11) are intended to ensure that the impounding structure is constructed in accordance with the approved design plan and will not present a hazard to the public because of unsafe construction practices or lack of proper maintenance. Both the operator and the regulatory authority use the information in the report to ensure the safety and stability of the impounding structure. Without the report, monitoring the condition and safety of the impounding structure would be difficult, and persons might not be aware of changing conditions of the structure or when it may become a hazard to the health and safety of the public.
3. See list of items with identical responses.
4. The Mine Safety and Health Administration requires the inspection and monitoring of impounding structures in the requirements of 30 CFR 77.216(3)(a). Information from these inspections may be incorporated into the certified report, along with the additional information that is required by this regulation.
5. See list of items with identical responses.



6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

Under 30 CFR 816/817.49(a)(11)(i), every impoundment must be inspected regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond. For most mines, this requirement equates to a minimum of one inspection per impoundment per year. However, for newly approved impoundments, this rule requires a minimum of two inspections during the year in which the impoundment is constructed (at least one during construction and one upon completion of construction). Based on our FY 2006 annual oversight report, we estimate that we and the States issue 300 new permits annually, plus another 250 major permit revisions that include new impoundments. The annual report also shows a total of 4,764 inspectable units in active status (operations that have not yet achieved Phase II bond release, at which time ponds may be removed). Based on our experience and prior discussions with respondents, we estimate that each new permit and existing inspectable unit includes an average of 3 impoundments. Each impoundment will require preparation of a certified report following the inspection. Conducting the inspection and preparing the certified report requires an average of 6 hours per report.

Therefore, the annual burden for all operators associated with construction of impoundments after issuance of a new permit or major revision totals **19,800 hours** (550 new permits and major revisions x 3 impoundments per permit or revision x 2 reports per impoundment x 6 hours per report). The annual burden for all operators associated with the annual inspections of impoundments totals **85,752 hours** (4,764 active inspectable units x 3 impoundments per inspectable unit x 1 certified report per impoundment x 6 hours per report). Therefore, the total annual burden for operators under these sections is **105,552 hours**.

Impoundment certification reports do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information

collection budget. Therefore, there is no information collection burden for regulatory authorities under 30 CFR 816/817.49.

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Mining Engineer	5	46.82	234
Operations Manager	1	63.72	64
Total	6		298

Therefore, the estimated total annual wage cost for each industry respondent for new impoundments under §816/817.49 is \$596 (\$298 x 2 certifications per impoundment), or \$983,400 (\$596 per impoundment x 550 new permits x 3 impoundments per new permit).

The total cost for the 4,764 active inspectable units is \$4,259,016 (4,764 active sites x \$298 per x 3 impoundments per inspectable unit x 1 certified report per impoundment).

The total wage cost to all respondents is \$5,242,416 (\$983,400 + 4,259,016). (There is no state burden imposed by this section.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 816/817.49 do not involve any capital or start-up costs unique to these requirements. The expertise and equipment needed to prepare impoundment certifications are no different than the expertise and equipment needed to design and construct the impoundment, which is a customary and usual business expense for mining operations. Similarly, the recordkeeping requirements for state regulatory authorities under this section do not require regulatory authorities to obtain unique or additional equipment or supplies. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 816/817.49 at \$50 per mine per year, for a total annual cost of **\$265,700** (5,314 surface and underground mines x \$50 per mine). These costs consist primarily of fuel and vehicle maintenance expenses for travel to the mine and copying and postage expenses for providing the regulatory authority with a copy of the certified reports.

Non-wage recordkeeping costs to State regulatory authorities are insignificant because the reports are filed as part of the mine records that must be maintained under 30 CFR 840.14, which has its own information collection budget.

14. Estimates of 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 816/817.49 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 120 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$5,640.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

Impoundment certification reports do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden for regulatory authorities under 30 CFR 816/817.49.

Total Federal Cost

\$	5,640	Oversight
+ \$	0	Federal Programs
\$	5,640	Total Federal Cost

15. The burden hours contained in this request differ from the currently approved estimates for sections 816/817.49 because of an increase in the estimated number of respondents from 258 new permits to a total of 550 new permits and major revisions. In addition, we have eliminated the burden for regulatory authority review of construction certification reports because that burden is already included in the burden for 30 CFR 840.11. The burden changes are as follows:

126,144 Hours currently approved by OMB  
- 31,104 Hours due to duplicative counting of regulatory review (program change)  
+ 10,512 Hours because of a reestimate in number of respondents  
105,552 Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

*Supporting Statement for 30 CFR 816.57 and 817.57*

**A. Justification**

1. Existing 30 CFR 816/817.57 prohibits mining activities from disturbing land within 100 feet of an intermittent or perennial stream unless the regulatory authority specifically authorizes those activities closer to or through the stream. The regulations provide that the regulatory authority may authorize such activities only after making a finding that the activities will not adversely affect water quantity and quality or other environmental resources of the stream, among other things.

Sections 515(b)(10), 515(b)(24), 516(b)(9), and 516(b)(11) of SMCRA provide the primary statutory authority for these regulations. In particular, sections 515(b)(10) and 516(b)(9) provide that surface coal mining operations must use the best technology currently available to prevent the contribution of additional suspended solids to streamflow or runoff outside the permit area to the extent possible, while sections 515(b)(24) and 516(b)(11) provide that mining and reclamation operations must use the best technology currently available to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values to the extent possible. Section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act, provides additional authority for collection of the information required by these sections.

The courts have upheld the existing stream buffer zone rules as properly implementing the environmental protection goals of the Act. However, because of the controversy surrounding those rules and their interpretation, the new Excess Spoil final rule extensively revises the rule language to more clearly align with the underlying statutory provisions and to specify activities to which the stream buffer zone requirement does not apply.

2. Regulatory authorities use this regulation to help protect streams and related environmental values from adverse mining-related impacts to the extent reasonably possible.
3. See list of items with identical responses.
4. See list of items with identical responses
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.

8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The existing stream buffer zone regulations at 30 CFR 816/817.57(a) require that the regulatory authority make certain findings before allowing a permit applicant or operator to disturb the surface of land within 100 feet of a perennial or intermittent stream. However, we are publishing a new final rule that will modify the required findings and move them to the permitting requirements at 30 CFR 780.28 and 784.28 or, for diversions of intermittent or perennial streams, to the stream-channel diversion requirements at 30 CFR 816/817.43(b). Consequently, the new final rule eliminates the 30,800-hour information collection burden currently approved by OMB for existing 30 CFR 816/817.57, although some of that burden would transfer to 30 CFR 780.28, 784.28, and 816/817.43.

b. Estimated Annual Wage Cost to Respondents

None. See item 12.a.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

None. See item 12.a.

b. Operation and Maintenance Costs

None. See item 12.a.

14. Estimate of Cost to the Federal Government

None. See item 12.a.

15. The current OMB-approved information collection burden for 30 CFR 816/817.57 is 30,800 hours. As discussed in item 12.a., we are publishing a new final rule that will move the finding requirements to 30 CFR 780.28, 784.28, and 816/.817.43, thus

eliminating the information collection burden currently associated with 30 CFR 816/817.57.

30,800	Hours currently approved by OMB
- 30,800	Hours because of planned programmatic changes
0	Hours requested

The new final rule also will eliminate \$38,500 in operations and maintenance costs for these sections.

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 816.61(d) and 817.61(d)***

The information collection requirements under 30 CFR 816.61(d) are subsumed within 30 CFR 780.13, which requires submission of a blasting plan for all surface mines that involve the use of explosives. Therefore, the burden for preparation of a blast design for surface mines is included in the burden for 30 CFR 780.13.

There is no counterpart to 30 CFR 780.13 for underground mines. However, we do not anticipate that any underground mines will need to prepare a blast design under 30 CFR 817.61(d). Therefore, we are not including a burden estimate or request for 30 CFR 817.61.



***Supporting Statement for 30 CFR 816.62 and 817.62***

**A. Justification**

1. Section 515(b)(15)(E) of the Act imposes detailed planning, preblast survey, permitting, and record-keeping requirements on persons planning to conduct surface coal mining operations that involve the use of explosives. Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. Our regulations at 30 CFR 816/817.62(a) and (b) implement those statutory provisions in part by requiring operators to perform preblast surveys when a request is made by a resident or owner of a structure within one-half mile of any portion of the permitted area; and submit the survey to the regulatory authority, and a copy, to the resident or owner of the properties. In addition, they require that, at least 30 days before initiation of blasting, the operator must provide written notification to all residents or owners of dwellings or other structures located within ½ mile of the permit area explaining how to request a preblasting survey.
2. The preblast survey must determine the condition of the dwelling structure and document any damage and other physical factors that could reasonably be affected by the blasting. In addition, the assessment must include the surface conditions and readily available data about structures such as pipelines, cables, transmission lines, and wells, cisterns, and other water systems. The regulatory authority, the operator and the owner of the structure can use the preblast survey reports to assess and compare conditions before blasting with those after blasting. In the absence of this information, there would be no way to fairly determine claims against the operator and no way for the owner to determine that blasting has or has not caused damage. This information can be also used as evidence in litigation. In addition to establishing a preblast record of the condition of structures, the survey opens lines of communication between the mining operator and the affected public.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.

10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The survey of dwellings is typically conducted prior to the initiation of blasting. An estimated 66% of the 258 new operations (approximately 170) and active surface operations (approximately 792) will conduct blasting at sites where there are structures within the ½ mile distance specified in this regulation. It is estimated that 40 dwellings, on the average, are present within ½ mile of the permit boundary. OSM also estimates that engineer technicians take **4 hours** to conduct, file and document a survey of such dwellings before the initiation of blasting. This labor burden hour estimation is based on discussions with our blasting experts, our experience as a regulatory authority, and comments received from respondents identified in item 8 above. Therefore, OSM estimates that the total burden hours for each respondent are **160 hours** (40 dwellings per operation x 4 hours per survey); those for all respondents in compliance with the requirements of 30 CFR 816/817.62 are approximately **153,920 hours** (962 sites with structures requiring blasting protection x 40 dwellings per operation x 4 hours per survey).

Preblast surveys do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, the only information collection burden to State regulatory authorities under 30 CFR 816/817.62 is the time required to file the reports which constitutes normal, customary business activities.

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Engineering Technician	4	30.21	121

Therefore, the estimated total annual wage cost for industry respondents for each permit site for §816/817.62 is \$4,840 (\$121 x 40 dwellings). The total wage cost to all industry respondents is \$4,656,080 (\$4, 840 x 962 sites).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$4,656,080.

13. Total Annual Non-Wage Cost Burden to Respondents

There are no non-wage costs other than those incurred in connection with usual and customary business practices.

14. Estimates of 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 816/817.62 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 20 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$940.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

Preblast survey review is conducted during Federal inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden for regulatory authorities under 30 CFR 816/817.62.

Total Federal Cost

\$	940	Oversight
+ \$	0	Federal Programs
\$	940	Total Federal Cost

15. The burden hours contained in this request differ from the currently approved estimates for sections 816/817.62 because of an increase in the estimated burden per respondent, from 2.625 hours per dwelling, to 4 hours to prepare a preblast survey per dwelling. The burden changes are as follows:

101,010 Hours currently approved by OMB

+ 52,910 Hours because of a reestimate in respondent burden  
153,920 Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

## *Supporting Statement for 30 CFR 816.64 and 817.64*

### **A. Justification**

1. Section 515(b)(15)(A) of the Act requires surface coal mine operators to provide adequate advance written notice to local governments and residents who might be affected by the use of explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality, and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed permit area where blasting will occur and by providing daily notice to resident/occupiers in such areas prior to any blasting. The regulations at 30 CFR 816.64 implement this statutory provision.

Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. Recognizing the differences between surface and underground mining, the rules at 30 CFR 817.64 did not impose the newspaper notice requirement on underground mines, although they do contain the other notice requirements.

2. The blasting schedule publication and republication must list the times when all blasting shall take place as approved by the regulatory authority. In addition, the contents of the schedule for distribution shall identify the name, address and telephone number of the operator, specific areas identified for blasting, dates and time periods, methods used to control access to the blasting area, and the types and patterns of audible warning and all-clear signals to be used. This information is needed by the regulatory authority and residents to provide advance notice and warning of the restrictive time periods and areas for blasting. In the absence of such information, there would be no procedures for restricting the times for blasting, determining claims against a specific operator or justifying limitations on the basis of public health, safety and welfare. In addition to establishing and distributing a schedule for blasting, this requirement opens lines of communication between the operator and the public about the blasting times, location, and operator responsibility.
3. This information is unique to each respondent and individual mine site. It is assumed that some report preparation is carried out by electronic methods. However, the nature and extent of utilizing electronic methods are not far-reaching, at least among the entities receiving the required information, local governments, individuals and newspapers. States require that the information be delivered as in hard-copy form in most instances.
4. See list of items with identical responses.
5. See list of items with identical responses.

6. Information collection occurs before any blasting program is conducted. The operator must republish and redistribute the blasting schedule at least once every 12 months. If notification were required less frequently, it could result in injury to those near the blast area because of a lack of familiarity with the previously published schedule.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

One blasting schedule is typically distributed annually for the coal mining operation. We estimate that coal operators take **4 hours** to prepare, process a blasting schedule and send to residents. This labor burden hour estimation is based on our staff expertise, our experience as a regulatory authority, and comments received from respondents identified in item 8 above. Therefore, we estimate that the labor burden for each respondent is **4 hours** (1 blasting schedule per year x 4 hours per blasting schedule) and that the labor burden for all respondents to comply with 30 CFR 816/817.64 is **3,848** hours (962 permits with structures within ½ mile x 1 blasting schedule per year x 4 hours per blasting schedule).

Notifications under 30 CFR 816/817.64 do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden to state regulatory authorities under 30 CFR 816/817.64.

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per	Cost Per Hour (\$)	Total Wage

	Response		Burden (\$)
Engineering Technician	4	30.21	121

Therefore, the estimated total annual wage cost for all industry respondents for §816/817.64 is \$116,402 (\$121 x 962 permits with structures).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$116,402 .

13. Total Annual Non-Wage Cost Burden to Respondents

There are no non-wage costs other than those associated with customary and usual business practices.

14. Estimates of 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 816/817.64 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 20 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$940.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

Blasting schedules are reviewed during Federal inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden for regulatory authorities under 30 CFR 816/817.64.

Total Federal Cost

\$	940	Oversight
+ \$	0	Federal Programs
\$	940	Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.64 is **3,848 hours**. Because the new final rule will not alter or impact these sections, we are not requesting any change in this burden.

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.



***Supporting Statement for 30 CFR 816.67 and 817.67***

**A. Justification**

1. Section 515(b)(15)(C) of the Act requires that blasting at surface coal mining operations be conducted in a manner to prevent injury to persons and damage to public or private property outside the permit area. This section also requires limiting the type of explosives and detonating equipment, and the size, timing, and frequency of blasts based on the physical condition of the site. Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. The regulations at 30 CFR 816/817.67 implement these statutory requirements.
2. Airblasts are airborne shock waves resulting from the detonation of explosives. Ground vibrations are elastic waves emanating from a blast and propagating through soil and rock. The operator must monitor both airblast and ground vibration to document adherence to the limits established by the regulatory authority. Airblasts should not exceed the maximum limits listed under 30 CFR 816/817.67(b)(i) with some exceptions. The maximum ground vibration for protected structures should not exceed the values approved in the blasting plan required under 30 CFR 780.13 and established in accordance with one of the three measurement methods described under 30 CFR 816/817.67. This information is needed by the regulatory authority to document periodic airblast monitoring and seismic records for each blast under section 816/817.67(b) and (d). Lacking sufficient information, safety could be jeopardized, as would investigations of damage complaints.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The burden hours for monitoring ground vibrations under 30 CFR 816/817.67 are dependent on such factors as the number of operations, number of dwellings in each operation, and number of seismic set-ups at each dwelling. Based on our experience, we estimate that mine operators will need an average of 1.2 hours per blast to set up and remove the seismograph, analyze the results, and file a copy of the seismographic record of the blast.

We estimate that 962 active surface mines will monitor about 156 blasts (3 blasts x 52 weeks/year) annually using seismographs. One seismograph will be placed at the nearest structure for each of those blasts. We estimate that the labor burden for each respondent will be **187 hours** (156 surveys x 1.2 hours per survey), and that the burden for all respondents to comply with 30 CFR 816/817.67 will be approximately **180,086 hours** (962 active operations x 156 surveys x 1.2 hours per dwelling).

The seismograph records obtained under 30 CFR 816/817.67(d) do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden to state regulatory authorities under 30 CFR 816/817.67.

b. Estimate of Annual Wage Costs to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Blasters	187	28.64	5,356

Therefore, the estimated total annual wage cost for all industry respondents for §816/817.64 is \$5,152,472 (\$5,356 x 962 permits with structures).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$5,152,472.

13. Total Annual Non-Wage Cost Burden to Respondents

There are no non-wage costs other than those associated with customary and usual business practices.

14 Estimates of 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 816/817.67 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 20 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$940.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

Reviewing seismographic records is conducted during Federal inspections under 30 CFR 840.11, which has its own information collection budget. Therefore, there is no information collection burden for regulatory authorities under 30 CFR 816/817.69.

Total Federal Cost

\$	940	Oversight
+ \$	0	Federal Programs
\$	940	Total Federal Cost

- 15. The current OMB-approved information collection burden for 30 CFR 816/817.67 is **180,086 hours**. Because the new final rule will not alter or impact these sections, we are not requesting any change in this burden.
- 16. See list of items with identical responses.
- 17. See list of items with identical responses.
- 18. See list of items with identical responses.

## *Supporting Statement for 30 CFR 816.68 and 817.68*

### **A. Justification**

1. Section 515(b)(15)(B) of the Act require surface mine operators using explosives to maintain blast records for a period of at least three years. Upon request, copies of the records must be available to the public for inspection. Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. The regulations at 30 CFR 816/817.68 implement these statutory provisions, with recordkeeping requirements tailored to the method used to measure ground vibration.
  
2. The information required is necessary for the regulatory authority to review previously conducted blasts to determine whether the blasts were conducted in accordance with the blast design and performance standards. Paragraphs (a), (b), and (c) identify the operator and the person responsible for the blasting in order to match the blast record with the operation and determine if the blaster is certified as required by section 816/817.61. Paragraph (d) records the distance to dwellings, which is necessary to determine compliance with the requirement under section 816/817.61(d) concerning the distance of the blast from dwellings. Paragraph (e) records weather conditions, which influence air vibration and could require schedule changes. Paragraphs (f) through (m) provide information necessary to determine the magnitude of the blast and conformance with section 816/817.67 ground vibration limitations. Paragraph (n) identifies measures to limit flyrock, which is subject to distance restrictions under section 816/817.67(c). Paragraph (o) records information basic to seismic tests, and paragraph (p) records any schedule changes, which are used to determine compliance with the blasting schedule requirements under section 816/817.64. A discussion of each paragraph follows:
  - (a) The name of the operator conducting the blast is needed for the regulatory authority to ascertain liability.
  - (b) This information is necessary for the regulatory authority to evaluate the effects of the blast to determine whether the blast damaged any structures.
  - (c) This information is necessary to assure the regulatory authority whether a certified blaster conducted the blast.
  - (d) This information is necessary for the regulatory authority to determine whether the standards have been exceeded or not.
  - (e) Information on weather conditions is necessary for the regulatory authority to determine whether the blast influenced airblasts and so, consequential changes of schedules are necessary.

- (f) A description of the blasting area is necessary for the regulatory authority to evaluate whether the proper weight of explosives was used.
- (g)-(n) The information required in these paragraphs is necessary for the regulatory authority to evaluate whether the blaster followed proper blasting practices. Otherwise, it may result in license revocation.
- (o) Certain information is necessary if the blaster uses a seismograph. [Seismographs are required if maximum ground vibration is measured in accordance with sections 816/817.67(d)(2) or (d)(4). Procedures under section 816/817.67(d)(3) do not require seismographs.] Subparagraphs (1) through (5) are justified as follows:
  - 1) The types of seismic instruments used must be reported to the regulatory authority.
  - 2) The seismograph record must be related to the blasting records.
  - 3) The regulatory authority must be assured that a competent individual conducted the reading.
  - 4) The regulatory authority must be assured that a competent individual has analyzed the seismic records.
  - 5) The blasting vibration and/or airblast caused by the explosives must be documented for the regulatory authority to evaluate whether the blasting exceeded the performance standards or not.
- (p) The regulatory authority must be assured that the unscheduled blast was necessary and followed proper procedures.

Collection and maintenance of the information required under this section are customary business practices. Blasting logs have been used by coal operators in states prior to the publication of these rules for insurance and legal purposes. Therefore, the burden associated with this collection is solely the burden to maintain the logs and supply the information as needed to the regulatory authorities and the public.

- 3. See list of items with identical responses.
- 4. See list of items with identical responses.
- 5. See list of items with identical responses.

6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

We estimate that the burden to respondents to comply with 30 CFR 816/817.68 is 75,036 hours (962 ongoing surface operations x 156 blasts per year per operation x .5 hours to record each blast). We are not including underground coal operations in this estimate because blasting at underground mines is rare and generally occurs only when the mine face-up is being constructed, which sometimes has a surface mine permit. Of the 75,036 total burden hours, **11,544 hours** (12 hours per operation x 962 operations) is associated with the requirement to file, maintain and submit reports when requested. The remaining 63,492 burden hours are considered customary business practices because mine operators kept blasting logs before the enactment of SMCRA and maintained those logs for legal and liability purposes.

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Blasters	12	28.64	344

Therefore, the estimated total annual wage cost for all industry respondents for §816/817.68 is \$330,928 (\$344 x 962 permits with structures).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$330,928.

13. Total Annual Non-Wage Cost Burden to Respondents

There are no non-wage costs other than those associated with customary and usual business practices.

14. Estimates of 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 816/817.68 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

There is no federal program burden associated with the requirement under 30 CFR 816/817.68 for operators to maintain blast records.

Total Federal Cost

\$ 1,880	Oversight
+ \$ <u>    0</u>	Federal Programs
\$ 1,880	Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.68 is **11,544 hours**. Because the new final rule will not alter or impact these sections, we are not requesting any change in this burden.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

## *Supporting Statement for 30 CFR 816.71 and 817.71*

### **A. Justification**

1. Section 515(b)(22) of the Act requires the proper design and construction of all excess spoil fills at surface coal mining operations to assure mass stability, safety, and a fill that is compatible with the natural drainage pattern and surrounding landform. Section 516(b)(10) of SMCRA provides that, with respect to surface impacts, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. The regulations at 30 CFR 816/817.71 implement these statutory provisions in part.

There are three provisions with information collection implications in 30 CFR 816/817.71 as those rules currently exist. The first one, 30 CFR 816/817.71(b)(1), requires that a qualified registered professional engineer experienced in the design of earth and rock fills certify the design of all excess spoil fills and appurtenant structures. The second, 30 CFR 816/817.71(e)(2), requires that the engineer certify that any design that calls for placement of spoil in lifts greater than 4 feet in thickness is stable and meets all other requirements. The information required by both of these rules is typically submitted as part of the permit application. Therefore, the burden for these requirements has previously been assigned to 30 CFR 780.35 (surface mining) and 784.19 (underground mining) to avoid duplicative counting. As part of the new Excess Spoil final rule, we are moving the design certification requirements of 30 CFR 816/817.71(b)(1) to 30 CFR 780.35 and 784.19. This change will not alter the information collection burden estimates for those sections for the reasons discussed above.

The third provision, 30 CFR 816/817.71(h), requires that the engineer or other professional specialist inspect the fill at least quarterly throughout construction and during critical construction periods. The regulations identify a minimum of four critical construction periods, including completion of construction. This provision further requires that the engineer provide a certified report to the regulatory authority after each inspection. It establishes certain content requirements for the certification and requires that a copy of the report be retained at or near the minesite.

2. The inspections, reports, and certifications required by 30 CFR 816/817.71(h) are intended to assure that the fill is constructed in accordance with the design plan. The information is needed to protect the environment and ensure public safety.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.



6. The information cannot be collected less frequently because the construction phase is an ongoing activity with the potential of some segments of the fill being covered prior to the next inspection.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

According to a nationwide survey conducted in 2005, more than 98% of all excess spoil fills are located in Kentucky, West Virginia, and Virginia. Our FY 2006 annual report indicates that those three states have 1,458 active surface mines and 1,676 active underground mines. Based on data supplied by the individuals in item 8, we estimate that 50% (728) of the active surface mines have excess spoil fills under construction, with an average of three fills per mine. We also estimate that 5% (84) of all underground operations have excess spoil fills under construction, with an average of one fill per mine.

Based on discussions with the individuals identified in item 8 above professional engineers will take **8 hours** to inspect each site, prepare, file, and maintain an inspection report for each excess spoil fill. We estimate that the burden for each surface mine respondent will be **96 hours** (1 operation x 3 excess spoil fills x 4 reports per year x 8 hours per inspection and report). Similarly, we estimate the burden for each underground mine will be **32 hours** for each underground mine respondent (1 excess spoil fill x 4 reports per year x 8 hours per inspection and report). Therefore, 728 surface mines x 96 hours = 69,888 burden hours for surface operators and 84 underground mines x 32 hours = 2,688 burden hours for underground operators. The total burden for all respondents to comply with 30 CFR 816/817.71(h) is **72,576 hours**.

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor's Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following

wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Mining Engineer	8	46.82	375
Total	8		375

Therefore, the estimated annual wage cost for each surface coal mining respondent is \$4,500 (\$375 x 3 fills x 4 reports). The total wage cost to all surface coal mining respondents is \$3,276,000 (\$4,500 x 728 active surface sites).

The estimated annual wage cost for each underground coal mining respondent is \$1,500 (\$375 x 1 fill x 4 reports). The total wage cost to all underground coal mining respondents is \$126,000 (\$1,500 x 84 active underground sites).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$3,402,000. (\$3,276,000 + \$126,000)

13. Total Annual Non-Wage Cost Burden to Respondents

There are no annual non-wage costs other than those associated with customary and usual business practices.

14. Estimates of 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 816/817.71 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

There is no federal program burden associated with the requirement under 30 CFR 816/817.71 for operators to maintain blast records.

Total Federal Cost

\$ 1,880 Oversight  
+ \$ 0 Federal Programs  
\$ 1,880 Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.71 is **475,136 hours**. This burden is associated entirely with 30 CFR 816/817.71(h), which is not altered by the new final rule. While the final rule revises other elements of 30 CFR 816/817.71, those changes will not impact the information collection burden for these sections. However, based on discussions with the respondents identified in item 8 above, we estimate that there will be a significant reduction in the number of respondents who have active excess spoil fills (812 instead of 3,116), and a reduction in the number of excess spoil fills per site, from 5 to 3. Therefore, the burden will change as follows:

475,136 Hours currently approved by OMB  
- 402,560 Hours due to a reestimate in number of respondents and usage  
72,576 Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 816.81 and 817.81***

**A. Justification**

1. Sections 515(f) and 516(b)(5) of SMCRA require that OSM develop regulations governing coal mine waste piles and embankments, including engineering and technical specifications and provisions for preconstruction review and approval of plans and specifications, periodic inspections during construction, and issuance of certificates upon completion of construction. The regulations at 30 CFR 816/817.81 implement this requirement in part. Section 515(b)(13) of the Act provides additional authority for these rules.
2. Regulatory authorities rely upon the design certification requirements of 30 CFR 816/817.81 to ensure that the coal mine waste disposal facility is designed in accordance with current, prudent engineering practices and does not present a public hazard or threat to property.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. Information is collected once during the design phase of the refuse pile or impoundment.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The design certification requirements of 30 CFR 816/817.81(c) for coal mine waste disposal facilities essentially duplicate the design certification requirements of 30 CFR 780.25(a) (surface mining) and 784.16(a) (underground mining). Parts 780 and 784 have their own information collection budgets. Therefore, we are not requesting or including an information collection burden for 30 CFR 816/817.81(c).

b. Estimated Annual Wage Cost to Respondents

None. See item 12.a.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

None. See item 12.a.

b. Operation and Maintenance Costs

None. See item 12.a.

14. Estimate of Annualized Cost to the Federal Government

None. See item 12.a.

15. The current OMB-approved information collection burden for 30 CFR 816/817.81 is **15,528 hours**. We are requesting that this burden be eliminated because it duplicates the burden for 30 CFR 780.25 and 784.16 as discussed in item 12.a. If approved, the burden will change as follows:

15,528 Hours currently approved by OMB  
- 15,528 Hours due to duplicative reporting (program change)  
0 Hours requested

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

*Supporting Statement for 30 CFR 816.83, 816.87, 817.83 and 817.87*

**A. Justification**

1. SMCRA recognized the threat posed by improper disposal of coal mine waste. Section 515(b)(3) of the Act requires the operator to backfill, grade and compact the excess burden and other spoil and waste materials after restoring the approximate original contour and to stabilize all coal processing waste through construction of compacted layers. Section 515(b)(13) requires the design and construction of coal mine waste piles in accordance with standard engineering practices. Furthermore, section 515(b)(14) requires that all materials, which constitute a fire hazard or any material that is acid forming or toxic forming be properly treated or buried to prevent surface or ground water contamination. It also requires that contingency plans be developed to prevent sustained combustion. Section 515(b)(11) of the Act also requires that all waste piles be stabilized through compaction. Paragraphs (b)(4) and (5) of section 516 include similar requirements for coal mine waste structures associated with underground mines.

The regulations at 30 CFR 816.83 and 817.83, which pertain to the construction of refuse piles, and 30 CFR 816.87 and 817.87, which pertain to the handling of burning coal mine waste, implement these statutory provisions in part. The information collection requirements for refuse piles appear in paragraph (d) of 30 CFR 816/817.83, which requires that a qualified professional inspect or supervise the inspection of refuse piles at least quarterly throughout construction and during critical construction periods, that inspection reports be certified, and that the reports be maintained at or near the mine site.

Under 30 CFR 816/817.87, the operator must develop a plan for extinguishing burning coal mine waste and handling or removing burning or burned coal mine waste, when applicable. The plan must be submitted to and approved by the regulatory authority. However, because this is a requirement that applies only in emergency and unanticipated situations, we are not including a request for an information collection budget for 30 CFR 816/817.87. It is not a routine or recurring event or requirement.

2. See response to item 1. Regulatory authorities use the reports required under 30 CFR 816/817.83(d) to ensure that refuse piles are constructed as designed and in a safe and stable manner that will minimize environmental damage and threats to public safety and private property. The plans for handling burning coal mine waste under 30 CFR 816/817.87 that the operator must develop and submit to the regulatory authority are also intended to protect public health and safety.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.

6. Information is collected quarterly during the construction of the refuse pile. Reduction of this frequency would not be prudent because the longer the time between inspections, the less certain the inspector can be that all pertinent construction activities have been properly performed.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

We estimate that 10% of surface coal mining operations contain coal mine waste refuse disposal sites, while 90% of underground coal mining operations contain coal waste disposal sites. Therefore, there are approximately 293 surface mines and 1,648 underground mines with waste refuse disposal sites, or 1,941 waste refuse disposal sites.

We also estimate that professional engineers will take **3 hours** to prepare, file and maintain a quarterly inspection report for coal mine waste disposal piles (refuse piles). This burden hour estimation is based on our staff expertise, our experience as a regulatory authority, and comments received from respondents identified in item 8 above. We estimate that the burden hours for each respondent are **12 hours** (1 waste disposal site x 4 inspection reports x 3 hours per report). The total burden for all respondents will be **23,292 hours** (1,941 operations x 4 reports per year x 3 hours per inspection report).

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor's Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Engineering Technician	2	30.21	60
Mining Engineer	1	46.82	47
Total	3		107

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.83 and .87 is \$428 (\$107 x 4 quarterly reports). The total wage cost to all industry respondents is \$830,748 (\$428 x 1941 operations with refuse piles).

Regulatory authority personnel review the refuse pile reports in coordination with their inspections conducted under 30 CFR 840.11 and 842.11, which have their own information collection budgets.

13. Total Annual Non-Wage Cost Burden to Respondents

There are no annual non-wage costs other than those incurred in connection with usual and customary business practices.

14. Estimates of 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 816/817.83 and .87 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement.

There is no federal program burden associated with the requirement under 30 CFR 816/817.83 and .87 for operators to maintain blast records.

Total Federal Cost



\$ 1,880 Oversight  
+ \$ 0 Federal Programs  
\$ 1,880 Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.83 and .87 is **23,292 hours**. Because the new final rule will not alter or impact these sections, we are not requesting any change in this burden.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 816.116 and 817.116***

**A. Justification**

1. These sections specify the standards for success for revegetation. State regulatory authorities must establish standards and statistically valid sampling techniques for use in determining revegetation success. In addition, mine operators must document the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and compliance with the general requirements of 30 CFR 816.111 and 817.111. Section 515(b)(19) of SMCRA, which requires that operators establish permanent vegetative cover on lands to be affected to achieve the approved postmining land use, provides the legal basis for these regulations.
2. Regulatory authorities use the documentation maintained by operators to determine whether revegetation success standards have been met.
3. The collection of information required under 30 CFR 816.116 and 817.116 is unique to each applicant and mining area. Respondents are state regulatory authorities who develop revegetation success standards and sampling techniques and individual mining companies who inspect mined lands being reclaimed to determine the success of their revegetation efforts and maintain reports. The required information may be collected and maintained in electronic format at the discretion of the regulatory authority and mine operator.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

We estimate that, each year, approximately two state regulatory authorities will modify their standards for revegetation success, requiring approximately 100 hours to complete each modification. The burden for the states is 200 hours annually.

In addition, 30 CFR 816/817.116 requires that coal mine operators document the success of revegetation during the revegetation responsibility period. Based on discussions with operators and state regulatory authorities, operators require 40 to 120 hours per year to conduct the sampling and documentation, with an average of 80 hours per year for each operator. The burden varies depending on location, postmining land use, size of the parcel being evaluated, and the variability of the vegetation. We estimate that each year there are 880 operators who measure revegetation success.

Therefore, the total annual burden for state regulatory authorities is **200 hours** (2 states revising sampling techniques or standards each year x 100 hours per state). The total annual burden for mine operators to document revegetation success is **70,400 hours** (880 operators x 80 hours per year).

The burden for all respondents to comply with sections 816/817.116 is **70,600 hours** (200 hours for state regulatory authorities + 70,400 hours for operators).

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	5	18.40	92
Samplers	40	21.38	855
Environmental Engineer	35	46.82	1,639
Total	80		2,586

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.116 is \$2,586. The total wage cost to all industry respondents is \$2,586 x 880 permits = \$2,275,680.

In addition, it takes 100 hours for each state regulatory authority to modify their standards for revegetation success which approximately 2 states will conduct each year.

Using U.S. Department of Labor's Bureau of Labor statistics figures for state employee plant and soil scientists at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b19-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b19-0000), we estimate that the wage cost is \$26.51 per hour, or \$40 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf).) Therefore, the estimated total annual wage cost for state regulatory authorities to modify their standards for revegetation success in §816/817.116 \$40 per hour x 100 hours = \$400. The total wage cost to all state regulatory authorities is \$400 x 2 states = \$800.

Therefore, we estimate that the burden to all respondents is \$2,275,680 for industry + \$800 for state regulatory authorities = \$2,276,480.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 816/817.116 do not involve any capital or start-up costs unique to these requirements. The expertise and equipment needed to conduct sampling and record the findings are customary and usual business expenses for mining operations. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 816/817.116 at \$50 per mine per year, for a total annual cost of **\$44,000** (880 surface and underground mines x \$50 per mine). These costs consist primarily of fuel and vehicle maintenance expenses for travel to the mine.

14. Estimates of 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 816/817.116 in the absence of any indication of programmatic problems. However, assuming we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under a federal regulatory program for a state, on Indian lands, and on federal lands for which there is no cooperative agreement providing for state regulation. We estimate that each year, ten operations for which we are the regulatory authority will measure revegetation success. However, we do not anticipate reviewing those measurements unless they are included in an application for bond release under 30 CFR 800.40. Therefore, there is no federal program cost under 30 CFR 816/817.116.

Total Federal Cost

\$ 1,880	Oversight
+ \$ <u>    0</u>	Federal Programs
\$ 1,880	Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.116 is **70,600 hours**. Because the new final rule will not alter or impact this section of the rules, we are not requesting any change in burden.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

## *Supporting Statement for 30 CFR 817.121*

### **A. Justification**

1. This section contains two provisions with information collection implications. The first one, 30 CFR 817.121(c)(5), specifies that the regulatory authority must require that the operator of an underground mine obtain additional performance bond to cover the cost of correcting any subsidence damage or water supply disruption that lasts beyond 90 days. The regulatory authority may extend this time up to one year if it finds in writing that all reasonably anticipated changes that could affect the structure or water supply have not yet occurred after 90 days. We are not including a burden estimate for this provision because of its non-standardized and remedial nature.

The second, 30 CFR 817.121(g), requires each underground mine operator to submit a detailed plan of the underground workings within a schedule approved by the regulatory authority. The preamble to this rule explains that this plan is a one-time submission intended to demonstrate how the operator of a newly approved underground mine will comply with the measures listed in the subsidence control plan for the mine.

Section 516(b)(1) of SMCRA, which specifies that each permit for an underground mine must require the operator to adopt measures to prevent subsidence to the extent technologically and economically feasible, in combination with section 516(a), which requires that the Secretary adopt rules to implement section 516, provide the statutory authority for 30 CFR 817.121(g). Additional statutory authority may be found in section 720 of SMCRA, which requires the adoption of regulations governing the correction of subsidence-related material damage to protected structures.

2. Regulatory authorities use the detailed plans submitted under 30 CFR 817.121(g) to evaluate compliance with the subsidence control plan submitted and approved under 30 CFR 784.20.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. This information is reported once and is needed to ensure that subsidence is prevented to the extent technologically and economically feasible.
7. See list of items with identical responses.
8. See list of items with identical responses.

- 9. See list of items with identical responses.
- 10. See list of items with identical responses.
- 11. See list of items with identical responses.
- 12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Since operators of underground mines must prepare detailed plans for future underground workings as part of their standard business practices and for the Mine Safety and Health Administration, we are not including the cost of preparing the detailed plans in the information collection burden estimate for 30 CFR 817.121(g). The only burdens that this section adds are preparation of the descriptions to explain the plans to the regulatory authority and the actual submission of the plans to the regulatory authority. Based in part on consultation with respondents, we estimate that these activities will require an average of 3 hours per plan.

As noted above, the detailed plans required under 30 CFR 817.121(g) are a one-time submission, the timing of which occurs at some point after approval of the permit application, but before most underground operations begin. Therefore, this requirement will apply only to newly permitted underground mines.

We estimate that approximately 80 new underground mine permits are issued each year. Therefore, we estimate that the annual information collection burden on mine operators and permittees to prepare and submit detailed plans under 30 CFR 817.121(g) will total **320 hours** (80 new permits issued per year x 1 detailed plan per permit x 4 hours per detailed plan).

The detailed plans submitted under 30 CFR 817.121(g) do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget.

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)

Mining Engineer	4	46.82	187
Total	4		187

Therefore, the estimated annual wage cost for each underground coal mining respondent is \$187, and the total wage cost to all underground coal mining respondents is \$14,960 (\$187 x 80 active surface sites).

Since there is no state regulatory burden for this section, the total wage cost for this section is \$14,960.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 817.121 do not involve any capital or start-up costs unique to these requirements. Preparation of plans similar to those required under this section is a customary and usual business practice for underground mines. Similarly, the recordkeeping requirements for state regulatory authorities under this section do not require regulatory authorities to obtain unique or additional equipment or supplies. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate that miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 817.121 will be \$20 per plan, for a total annual cost of **\$1,600** (80 new underground mine permits issued per year x 1 detailed plan per permit x \$20 per plan). These costs consist primarily of drafting and office supplies, copying and delivery expenses for providing the regulatory authority with a copy of the plans.

Non-wage recordkeeping costs to state regulatory authorities are insignificant because the reports are filed as part of the mine records that must be maintained under 30 CFR 840.14, which has its own information collection budget.

14. Estimate of Annualized Cost to the Federal Government

The detailed plans submitted under 30 CFR 817.121(g) normally do not require regulatory authority or oversight review apart from the inspections that we conduct under 30 CFR 842.11, which has its own information collection budget. Therefore, the only significant information collection cost to the Federal government under 30 CFR 817.121 is the expense of filing plans submitted to us when we are the regulatory authority. In our experience, we need an average of 0.25 hour per plan to file these plans.



In FY 2005, we issued 2 new underground mine permits. At an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; <http://www.opm.gov/oca/08tables/html/gsh.asp>), the annual wage cost to the federal government to file the detailed plan for this permit would be \$24 (2 permits issued per year x 1 detailed plan per permit x 0.25 hour per plan x \$47 per hour). Non-wage recordkeeping costs are insignificant because the plans are filed as part of the mine records that we must maintain under 30 CFR 842.16, which has its own information collection budget.

15. The current OMB-approved information collection burden for 30 CFR 817.121 is **320 hours**. Because the new final rule will not alter or impact this section, we are not requesting any change in burden.
16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 817.122***

**A. Justification**

1. This section specifies that the operator of an underground mine must mail a notification to all owners and occupants of surface property and structures above the planned underground workings at least 6 months before mining. The statutory authority for this requirement arises under section 201(c) of SMCRA, which provides that the Secretary shall publish such rules as may be necessary to carry out the purposes and provisions of SMCRA. Section 102(i) of SMCRA states that one of the purposes of the Act is to assure that appropriate procedures are provided for public participation in enforcement of the Act. The notice required under 30 CFR 817.122 lies within this rubric.
2. Persons who reside or own property overlying areas of planned underground mine workings use the notice required under 30 CFR 817.122 to prepare for any potential impacts of that mining.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. This information is submitted once to ensure public participation and awareness of potential hazards.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

## 12. Estimated Information Collection Burden

### a. Burden Hour Estimates for Respondents

The notification required by 30 CFR 817.122 applies only to those underground mines that prepare subsidence control plans. We estimate that 90 percent of all underground mines must prepare such plans under 30 CFR 784.20(b). In addition, most underground mines are located in relatively remote areas with few structures and large landholdings. Hence, the number of landowners and occupied dwellings overlying the planned underground workings is usually low, and the mine may be working beneath the same landholdings for more than 6 months. Taking these factors into consideration, we estimate that 50 percent of the active underground mines with subsidence control plans will need to provide notifications to an average of three surface landowners and residents of occupied dwellings every 6 months.

Regulatory authorities reported a total of approximately 606 active underground mines for FY 2005, which translates to 273 mines for which mine operators will need to provide notification. Accordingly, we estimate that, every 6 months, mine operators will need to mail a total of 819 notifications (273 mines x 3 surface owners or residents per mine x 1 notification per owner or resident), which translates to 1,638 notifications per year (819 notifications twice per year).

We estimate that each notification letter will require 0.5 hour to prepare and mail. Therefore, we estimate that the annual information collection burden on mine operators and permittees under 30 CFR 817.122 will total **819 hours** (1,638 notification letters per year x 0.5 hour per letter).

The notifications required under 30 CFR 817.122 do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Hence, there is no information collection burden for State regulatory authorities under 30 CFR 817.122.

### b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor's Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	.5	18.40	9
Total	.5		9

Therefore, the estimated total annual wage cost for each industry respondent for §817.122 is \$18 (\$9 x 2 annual reports). The total wage cost to all industry respondents is \$14,742 (\$18 x 819 sites requiring notifications).

Regulatory authority personnel review the refuse pile reports in coordination with their inspections conducted under 30 CFR 840.11 and 842.11, which have their own information collection budgets.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 817.121 do not involve any capital or start-up costs unique to these requirements. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate that miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 817.122 will total \$3 per notification letter for a total annual cost of **\$4,914** (1,638 notification letters per year x \$3 per letter). These costs consist primarily of office supplies, copying and delivery expenses.

14. Estimate of Annualized Cost to the Federal Government

The notifications required under 30 CFR 817.122 do not require regulatory authority or oversight review apart from the inspections conducted under 30 CFR 842.11, which has its own information collection budget. Therefore, there are no information collection costs to the federal government under 30 CFR 817.122.

15. The current OMB-approved information collection burden for 30 CFR 817.122 is 816 hours. This collection adds 3 hours due to a calculation error in the previously approved collection.

816 Hours currently approved by OMB

+ \_\_\_\_\_ 3 Hours due to a correction (programmatic change)  
819 Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement of 30 CFR 816.131 and 817.131***

**A. Justification**

1. These sections require that a person who plans to cease surface or underground mining activities on a temporary basis for more than 30 days notify the regulatory authority of his intention to cease or abandon mining activities. This section also spells out what should be included in the notice. The statutory authority for this section is broadly provided in sections 509, 510, 515, and 516(b)(10) of the Act, along with the general rulemaking authority in section 201(c)(2) of the Act. The temporary cessation notice provides the regulatory authority with the information needed to ascertain that the operator has not abandoned the site without completing reclamation.
2. The required information is intended to ensure that the regulatory authority is notified of the cessation. The regulatory authority can then review the notice to determine whether the environment will be adequately protected during the period of cessation. Failure to provide this information could result in environmental damage from pollutorial discharges, failure to reclaim contemporaneously with mining, or other problems.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The number of temporary cessation notices for coal operations fluctuates from year to year, depending upon market conditions. Based upon our staff expertise, our experience as a regulatory authority, and comments received from respondents identified in item 8

above, we estimate that a coal operator needs **16 hours** to prepare and file a notice. We also estimate that, nationwide, approximately 275 surface mines and 60 underground mines file for temporary cessation annually. Therefore, the total burden to comply with 30 CFR 816/817.131 for all respondents is **5,360 hours** [335 operators filing a temporary cessation notice x 16 hours to prepare each notice].

Temporary cessation notices do not require approval by the regulatory authority. States receive 331 temporary cessation notices each year (4 are submitted to OSM in federal program states). States review the documents and file them, requiring **.5 hours** per notice. Therefore, the burden to state regulatory authorities is **166 hours** (.5 hours x 331 notices).

The total information collection burden for 30 CFR 816/817.131 is **5,526 hours** (166 hours for state regulatory authorities + 5,360 hours for mine permit applicants and operators).

b. Estimate of Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	18.40	18
Mining Engineer	14	46.82	655
Operations Manager	1	63.72	64
Total	16		737

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.131 is \$737. The total wage cost to all industry respondents is \$246,895 (\$737 x 335 operators filing for temporary cessation).

In addition, it takes .5 hours for each state regulatory authority to review and file each temporary cessation notice.

Using U.S. Department of Labor’s Bureau of Labor statistics figures for state employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE

COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Therefore, the estimated total annual wage cost for state regulatory authorities to review and file the notices for 816/817.131 is \$31 per hour x .5 hours per diversion or restoration finding = \$16 per notice. The total wage cost to all state regulatory authorities is \$16 x 331 notices = \$5,296.

Therefore, we estimate that the burden to all respondents is \$246,895 for industry + \$5,296 for state regulatory authorities = \$252,191.

13. Total Annual Non-Wage Cost Burden to Respondents

There are no annual costs beyond those reported in item 12.

14. Estimated 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 816/817.131 in the absence of any indication of programmatic problems. However, if we conduct an oversight review of this topic in one state program per year, that review would require an average of 40 hours at \$47 per hour (GS 12/5 regulatory program specialist/mining engineer reviewing the application, including 1.5 multiplier for benefits; [http://www.opm.gov/oca/08tables/html/g\\_s\\_h.asp](http://www.opm.gov/oca/08tables/html/g_s_h.asp)). The annual cost to OSM for this oversight activity is estimated to be \$1,880.

Federal Programs: OSM is the regulatory authority for all operations under federal regulatory programs, on Indian lands, and on federal lands in states without a cooperative agreement. Based on past experience, we estimate that four operations for which we are the regulatory authority will file a notice of temporary cessation each year. Therefore, the federal program cost under 30 CFR 816/817.131 will be approximately \$564 (4 temporary cessation notices per year x 3 hours to review each notice x \$47 per hour).

Total Federal Cost

\$	1,880	Oversight
+ \$	564	Federal Programs
\$	2,444	Total Federal Cost

15. The current OMB-approved information collection burden for 30 CFR 816/817.131 is **5,360 hours**. The new final rule will not alter or impact these sections. However, OSM has identified an error in the previous submissions by not including the state regulatory



authority's burden to review and file the temporary cessation notices. Therefore, this collection adds 166 hours due to an omission in the previously approved collection.

	5,360	Hours currently approved by OMB
+	<u>166</u>	Hours due to an omission (programmatic change)
	5,526	Hours requested

16. See list of items with identical responses.
17. See list of items with identical responses.
18. See list of items with identical responses.

***Supporting Statement for 30 CFR 816.133 and 817.133***

Paragraph (d) of this section, which concerns variances from approximate original contour restoration requirements, includes several provisions requiring notification and consultation with other agencies, written consent from the landowner, and certification by an engineer. However, the information collection burden for these provisions appears as part of the burden for 30 CFR 785.16, which effectively duplicates and incorporates the requirements of 30 CFR 816/817.133(d). Therefore, we are not including a separate information collection burden request for 30 CFR 816/817.133.

***Supporting Statement for 30 CFR 816.151 and 817.151***

A. Justification

1. Under 30 CFR 816/817.151(a), the construction or reconstruction of primary roads for surface and underground mines must be certified in a report to the regulatory authority by a qualified registered professional engineer (or qualified registered professional land surveyor) experienced in the design and construction of roads. The report must indicate that the road has been constructed or reconstructed as designed and in accordance with the approved plan.

Section 516(b)(10) of SMCRA provides that, with respect to the construction of new roads or the improvement or use of existing roads, underground coal mines must operate in accordance with the standards for surface coal mining operations in section 515 of the Act unless the Secretary modifies the requirements of section 515 by rulemaking. Section 515(b)(17) of SMCRA provides that our regulations must require that mine operators insure that the construction of access roads will control or prevent erosion and siltation, water pollution, property damage, and damage to fish and wildlife or their habitat. The certification requirement of 30 CFR 816/817.151(a) is intended to implement this statutory provision in part.

2. Regulatory authorities rely in part upon the construction certification requirements of 30 CFR 816/817.151 to ensure that mine roads are constructed in accordance with current, prudent engineering practices and do not present an environmental hazard or threat to property.
3. See list of items with identical responses.
4. See list of items with identical responses.
5. See list of items with identical responses.
6. See list of items with identical responses.
7. See list of items with identical responses.
8. See list of items with identical responses.
9. See list of items with identical responses.
10. See list of items with identical responses.
11. See list of items with identical responses.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Based on our experience, we estimate that all new mine permits will include the construction or reconstruction of one or more primary roads. In addition, based on informal consultation with a major state regulatory authority, we estimate that, each year, 20 percent of all active existing mines will expand or revise their permit boundaries to construct a new surface facility such as a road, portal, or other mine opening. We anticipate that 80 percent of those permit revisions will involve the construction or reconstruction of a primary road. In both cases, for purposes of this analysis, we will assume that the road construction is completed in the same year that the permit was issued or the revision was approved, and that all roads within the permit area are included in the same certification report.

In FY 2005, regulatory authorities issued a total of 258 new mine permits. Therefore, applying the assumptions discussed in the preceding paragraph, we estimate that, each year, 258 mines resulting from newly issued permits will need to provide a road construction completion certification report (258 new permits per year x 1 certification per permit). Regulatory authorities also reported a total of approximately 1,398 actively producing coal mines for FY 2005. Therefore, applying the assumptions discussed in the preceding paragraph, we estimate that, each year, 223 active existing mines will need to provide a road construction completion certification report [1,398 active existing underground mines x 0.2 permit boundary revisions per mine per year x 0.8 (proportion of permit boundary revisions that include road construction) x 1 certification per permit boundary revision].

Hence, we estimate that, each year, operators will need to provide a total of 481 construction completion certification reports for primary roads

Based on our experience, we estimate that each construction completion certification report under 30 CFR 816/817.151(a) will require an average of 11 hours to prepare and submit because of the need for a survey of all roads and subsequent preparation of new plans and drawings as part of the certification report. While the time required to complete a road survey depends upon the extent and configuration of the road and the amount of disruption by road traffic, our experience indicates that the survey will take at least as long as (and often longer than) a survey of a major impoundment.

Accordingly, we estimate that the annual information collection burden on mine operators and permittees under 30 CFR 816/817.151 will total **5,291 hours** (481 road certification reports per year x 11 hours per certification).

Construction completion certification reports for primary roads do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has

its own information collection budget. Therefore, the only significant information collection burden to State regulatory authorities under 30 CFR 816/817.151 is the expense of filing the reports which constitutes customary business practices for State regulatory authorities.

b. Estimated Annual Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics for mining companies found at [http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.4 of hourly wages):

Industry Wage Cost			
Position	Hour Burden per Response	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	18.40	18
Mining Engineer	14	46.82	655
Operations Manager	1	63.72	64
Total	16		737

Therefore, the estimated total annual wage cost for each industry respondent for §816/817.131 is \$737. The total wage cost to all industry respondents is \$246,895 (\$737 x 335 operators filing for temporary cessation).

In addition, it takes .5 hours for each state regulatory authority to review and file each temporary cessation notice.

Using U.S. Department of Labor’s Bureau of Labor statistics figures for state employee engineering technician at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000), we estimate that the wage cost is \$20.52 per hour, or \$31 per hour (rounded) when including benefits calculated at 1.5 of hourly wages. (OSM derived the 1.5 multiplier from the ratio between wages and benefits for state and local government workers in the U.S. Bureau of Labor Statistics for EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—SEPTEMBER 2007 at [http://www.bls.gov/news.release/archives/ecec\\_12112007.pdf](http://www.bls.gov/news.release/archives/ecec_12112007.pdf)). Therefore, the estimated total annual wage cost for state regulatory authorities to review and file the notices for 816/817.131 is \$31 per hour x .5 hours per diversion or restoration finding = \$16 per notice. The total wage cost to all state regulatory authorities is \$16 x 331 notices = \$5,296.

Therefore, we estimate that the burden to all respondents is \$246,895 for industry + \$5,296 for state regulatory authorities = \$252,191.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 816/817.151 do not involve any capital or start-up costs unique to these requirements. Mining operations require engineering and road construction expertise and equipment as part of their customary and usual business practices. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 816/817.151 at \$50 per certification report, for a total annual cost of **\$24,050** (481 certification reports per year x \$50 per report). These costs consist primarily of fuel and equipment maintenance expenses for travel to the mine, drafting and office supplies, and copying and delivery expenses for providing the report to the regulatory authority.

14. Estimate of Annualized Cost to the Federal Government

The certification reports submitted under 30 CFR 816/817.151 normally do not require regulatory authority or oversight review apart from the inspections that we conduct under 30 CFR 842.11, which has its own information collection budget. Therefore, the only significant information collection cost to the Federal government under 30 CFR 816/817.151 is the expense of filing reports submitted to us when we are the regulatory authority, which is customary business activities.

15. The current OMB-approved information collection burden for 30 CFR 816/817.151 is **5,291 hours**. Because the new final rule will not alter or impact these sections, we are not requesting any change in burden.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.