

**1 Supporting Statement A**  
**30 CFR Part 800 – Bond, Financial Assurance, and Insurance**  
**Requirements for Surface Coal Mining and Reclamation Operations**  
**under Regulatory Programs**

**OMB Control Number 1029-xxx6**

Terms of Clearance: None

**General Instructions**

*A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked “Yes,” then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.*

**Introduction**

We, the Office of Surface Mining Reclamation and Enforcement (OSMRE) are submitting this information collection clearance package as a request to revise our authority to collect information and require retention of records under 30 CFR Part 800, “Bond, Financial Assurance, and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs.” We are requesting these changes to reflect regulatory modifications that would occur if we propose and adopt a rule that would establish requirements for financial assurances for long-term discharges, that would alter the procedures and criteria for bond release, and that would reorganize part 800. The Office of Management and Budget (OMB) previously reviewed and approved the collection of information under this part and assigned it clearance number 1029-0043. However, OSMRE is requesting a new OMB control number for this collection pending approval of the final rule.

The regulations at 30 CFR Part 800 primarily implement section 509 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), which requires that persons planning to conduct surface coal mining operations first post a performance bond to guarantee fulfillment of all reclamation obligations under the approved permit. The regulations also establish bond release requirements and procedures consistent with section 519 of the Act, liability insurance requirements pursuant to section 507(f) of the Act, and procedures for bond forfeiture should the permittee default on reclamation obligations.

The respondents and potential respondents consist of coal mining entities that hold permits for coal mines and related facilities subject to regulation under SMCRA. The respondents also include the 24 state regulatory authorities under SMCRA.

## **Specific Instructions**

### **Justification**

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

Section 509 of the Act requires that a person seeking a permit to conduct surface coal mining operations file a performance bond to guarantee faithful performance of all of the requirements of the regulatory program, the permit, and the reclamation plan. The bond must be filed on a form prescribed and furnished by the regulatory authority. The Act and regulations allow the bond to be filed on an incremental schedule as mining operations progress. The regulations at 30 CFR 800.1 through 800.30 implement this section of the Act.

Section 519 of the Act establishes application requirements, procedures, and criteria for release of performance bonds filed under section 509 of the Act. The regulations in 30 CFR 800.40 implement this section of the Act. The proposed rule would divide existing 30 CFR 800.40 into five sections, 30 CFR 800.40 through 800.44 in keeping with plain language principles.

Section 507(f) of the Act specifies that each application for a surface coal mining permit must contain either a certificate of personal injury and property damage liability insurance or evidence of self-insurance. The regulations in 30 CFR 800.60 implement this statutory provision.

One of the major elements of the proposed rule is the addition of 30 CFR 800.18 and related provisions that establish financial assurance requirements to ensure continued treatment of long-term pollutional discharges. Section 509(c) of SMCRA, which specifies that “the Secretary may approve as part of a State or Federal program an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section,” provides the authority for our proposed financial assurance regulations and associated information collection requirements.

Section 201(c)(2) of SMCRA, which states that the Secretary, acting through OSMRE, “shall \*\*\* publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act,” provides the authority for collection of the information required by those existing and proposed provisions of Part 800 that are not expressly required under sections 507(f), 509, and 519 of the Act.

- 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.***

OSMRE and state regulatory authorities under SMCRA rely upon properly executed bond instruments and related documents to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture. Our proposed addition of requirements for trusts and annuities used to guarantee long-term treatment of postmining pollutional discharges would ensure that these financial instruments are structured in a manner that will provide sufficient income on a continuing basis to cover treatment costs.

Similarly, OSMRE and state regulatory authorities rely upon the information submitted as part of bond release applications, supplemented by other information available to the regulatory authority, to determine whether to release bond, in whole or in part. Insurance certificates document that the permittee has the liability coverage required by the Act.

- 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.***

We cannot require electronic submission of information in states in which we are not the regulatory authority, but we encourage the use of electronic information collection and submission techniques whenever appropriate and feasible. However, some bond instruments are difficult to automate because of legal implications. Some respondents use automated media to store information relevant to the collections of information required under part 800, but the extent of such use is unknown. Some state regulatory authorities use automation to calculate bond amounts.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.***

The information collection requirements of part 800 do not duplicate information collection requirements under other laws and regulations. The requested information is time-sensitive and unique to each applicant or surface coal mining operation. OSMRE is the only federal agency charged with implementation of SMCRA with respect to performance bonds for surface coal mining operations.

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

There are no special provisions for small businesses or other small entities. Nor are any appropriate because the requested information is essential to ensuring and maintaining

the integrity of the performance bond and liability insurance required for each surface coal mining operation.

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.***

If the requested information either was not collected or was collected less frequently, OSMRE and state regulatory authorities would be either unable or less able to ensure that surface coal mining operations post and maintain viable performance bonds and liability insurance policies as required by sections 509 and 507(f) of the Act. OSMRE and state regulatory authorities also would be less able to ensure that all necessary reclamation has been completed before all or part of a bond is released in accordance with section 519 of the Act.

7. ***Explain any special circumstances that would cause an information collection to be conducted in a manner:***
- \* requiring respondents to report information to the agency more often than quarterly;***
  - \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;***
  - \* requiring respondents to submit more than an original and two copies of any document;***
  - \* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;***
  - \* in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;***
  - \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;***
  - \* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or***
  - \* requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.***

This collection of information is consistent with the guidelines at 5 CFR 1320.5(d)(2) as summarized in the instructions for this item of the supporting statement.

8. ***If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions***

***taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.***

***Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.***

***Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.***

Because we are proposing to extensively revise part 800, we did not survey past respondents to obtain their views on the information collection burden imposed by part 800 and the clarity of the regulations. Instead, the preamble to the proposed rule will request comments from the public concerning the information collection burden under the revised rule and the clarity of that rule. In developing cost estimates, we relied upon internal expertise and prior consultations with respondents.

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

Not applicable. We do not provide payments or gifts to respondents.

**10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.***

Not applicable. Neither SMCRA nor our regulations contain provisions allowing the information collected under 30 CFR Part 800 to be kept confidential. Under 30 CFR 840.14(b), copies of all information obtained by the regulatory authority must be made immediately available to the public in the area of mining until at least five years after expiration of the period during which the operation is active or is covered by any portion of a performance bond. The only exceptions are for (1) information protected by other federal laws or (2) certain permit application information specified in 30 CFR 772.15 and 773.6(d). These exceptions do not apply to performance bonds and insurance policies.

**11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.***

Not applicable. There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

**\* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

**\* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**

**\* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to Federal Government.”**

a. Burden Hour Estimates for Respondents

Potential respondents include state regulatory authorities and applicants for permits for coal mines and related facilities under SMCRA. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are required to obtain a benefit. We estimate the total annual burden is 92,028 hours. The table provides a section-by-section breakdown of the burden.

Section	Type of Respondent	Ave. No. of Responses per Year	Burden per Response (Hours)	Annual Burden (Hours)	Change due to Rule
800.11	Industry	287	20	5,740	0
	State regulatory authorities	0	0	0	0
800.14	Industry	0	0	0	0
	State regulatory authorities	285	25	7,125	0
800.15	Industry	0	0	0	0
	State regulatory	3,075	5	15,375	0

<b>Section</b>	<b>Type of Respondent</b>	<b>Ave. No. of Responses per Year</b>	<b>Burden per Response (Hours)</b>	<b>Annual Burden (Hours)</b>	<b>Change due to Rule</b>
	authorities				
800.18	Industry	2	200	400	400
	State regulatory authorities	2	200	400	400
800.20	Industry	968	10	9,680	0
	State regulatory authorities	926	2	1,852	0
800.21	Industry	447	10.5	4,694	0
	State regulatory authorities	428	3	1,284	0
800.23	Industry	74	16	1,184	0
	State regulatory authorities	70	4	280	0
800.30	Industry	8	1.5	12	0
	State regulatory authorities	8	0.5	4	0
800.40	Industry	600	40	24,000	16,800
	State regulatory authorities	0	0	0	0
800.41	Industry	0	0	0	0
	State regulatory authorities	600	20	12,000	0
800.43	Industry	0	0	0	0
	State regulatory authorities	1,870	2	3,740	0
800.44	Industry	0	0	0	0
	Individual	1	2	2	0
	State regulatory authorities	113	4	452	0

<b>Section</b>	<b>Type of Respondent</b>	<b>Ave. No. of Responses per Year</b>	<b>Burden per Response (Hours)</b>	<b>Annual Burden (Hours)</b>	<b>Change due to Rule</b>
800.50	Industry	0	0	0	0
	State regulatory authorities	48	10	480	0
800.60	Industry	1,662	2	3,324	0
	State regulatory authorities	0	0	0	0
<b>Total burden hours by type of respondent</b>	Industry	--	--	49,034	17,200
	Individuals	--	--	2	0
	State regulatory authorities	--	--	42,992	400
<b>Total burden hours</b>		--	--	<b>92,028</b>	<b>17,600</b>

b. Estimated Wage Cost to Respondents

OSMRE has estimated wage costs for respondents: industry and State regulatory employees. OSMRE has derived these wages from the Bureau of Labor Statistics (BLS) websites at ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm) for industry wages, and [http://www.bls.gov/oes/current/naics4\\_999200.htm#b00-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000) for State employees. Benefits have been calculated using a rate of 1.4 of the salary for industry personnel and 1.5 for State employees per the BLS news release USDL-15-0386, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—DECEMBER 2014, dated March 11, 2015 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).



<b>Industry Wage Costs</b>					
<b>Position</b>	<b>Total Hours</b>	<b>Cost per Hour</b>	<b>Hourly Rate with Benefits (x 1.4)</b>	<b>Percent of Time Spent on Information Collection</b>	<b>Weighted Average Hourly Rate</b>
Administrative Support	4,903	\$18.79	\$26.31	10%	\$2.63
Physical Scientist	19,614	\$39.20	\$54.88	40%	\$21.95
Engineer	19,614	\$41.99	\$58.79	40%	\$23.52
Operations Manager	4,903	\$58.31	\$81.63	10%	\$8.16
Total	0			100%	0

At an average cost of \$56.26 per hour, we estimate total annual wage costs for industry respondents for part 800 as **\$2,758,653** (49,034 hours x \$56.26 per hour).

State Regulatory Authority Wage Costs					
Position	Total Hours	Cost per Hour	Hourly Rate with Benefits (x 1.5)	Percent of Time Spent on Information Collection	Weighted Average Hourly Rate
Administrative Support	4,299	\$17.61	\$26.31	10%	02.63
Physical Scientist	17,197	\$29.88	\$44.82	40%	\$17.93
Mining Engineer	17,197	\$43.01	\$64.52	40%	\$25.81
Operations Manager	4,299	\$44.47	\$66.71	10%	\$6.67
Total	0			100%	0

At an average wage cost of \$53.04 per hour, we estimate total annual wage costs for state regulatory authority respondents under part 800 to be **\$2,280,296** (42,992 hours x \$53.04 per hour).

We estimate the total wage costs for all respondents under part 800 to be **\$5,038,949** (\$2,758,653 for industry + \$2,280,296 for state regulatory authorities).

13. ***Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)***
- \* ***The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.***
  - \* ***If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or***

*contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

*\* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

a. Annualized Capital and Start-up Costs

Non-wage capital and start-up costs for each respondent are displayed in the following table. Examples of non-wage costs under Part 800 include publication of notices in local newspapers, court reporter costs, copying expenses, and certified mailing costs.

<b>NON-WAGE COST BURDEN FOR 30 CFR PART 800</b>					
<b>Section</b>	<b>Type of Respondent</b>	<b>Ave. No. of Responses per Year</b>	<b>Non-Wage Costs per Response (\$)</b>	<b>Annual Non-Wage Cost (\$)</b>	<b>Change due to Rule</b>
800.11	Industry	287	50	14,350	0
	State regulatory authorities	0	0	0	0
800.14	Industry	0	0	0	0
	State regulatory authorities	285	50	14,250	0

800.15	Industry	0	0	0	0
	State regulatory authorities	3,075	0	0	0
800.18	Industry	2	3,000	6,000	6,000
	State regulatory authorities	2	0	0	0
800.20	Industry	968	0	0	0
	State regulatory authorities	926	0	0	0
800.21	Industry	447	0	0	0
	State regulatory authorities	428	0	0	0
800.23	Industry	74	0	0	0
	State regulatory authorities	70	0	0	0
800.30	Industry	8	3	24	0
	State regulatory authorities	8	3	24	0
800.40	Industry	600	605	363,000	0
	State regulatory authorities	0	0	0	0
800.41	Industry	0	0	0	0
	State regulatory authorities	600	125	75,000	0
800.43	Industry	0	0	0	0
	State regulatory authorities	1,870	18	33,660	0
800.44	Industry	0	0	0	0
	Individuals	1	5	5	0
	State regulatory authorities	113	65	7,345	0
800.50	Industry	0	0	0	0

	State regulatory authorities	48	3	144	0
800.60	Industry	1,662	0	0	0
	State regulatory authorities	0	0	0	0
<b>Total Non-Wage Cost Burden by Type of Respondent</b>	Industry	--	--	383,374	6,000
	Individuals	--	--	5	0
	State regulatory authorities	--	--	130,423	0
<b>Total Non-Wage Cost Burden</b>		--	--	<b>513,802</b>	<b>6,000</b>

b. Operation, Maintenance and Services

Not applicable. Compliance with Part 800 does not involve any operation and maintenance costs apart from those associated with customary business activities.

14. ***Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.***

Oversight. In keeping with the current guidance concerning oversight of state program implementation, we do not anticipate significant oversight review of state compliance with 30 CFR Part 800 in the absence of an indication of problems. When we do conduct oversight reviews, they will most likely focus on one or a few sections of part 800 rather than the whole part. Aggregating these reviews, we estimate that we will conduct the equivalent of one complete oversight review of part 800 in one state per year and that that review will require 100 hours.

Based on the U.S. Office of Personnel Management Salary Table located at [http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS\\_h.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf), the annual average salary used to estimate the wage cost to the Federal Government is \$43.73 per hour for a GS 12 step 10 Reclamation Specialist. Incorporating benefits using a 1.5 multiplier from the ratio between wages and benefits derived from the BLS news release USDL-15-0386 discussed above, the hourly wage cost to the Federal Government is \$65.60 per hour. Thus, our total annual cost of our oversight reviews of state programs under part 800 is estimated to be **\$6,560** (\$65.60 per hour x 100 hours).

Federal Programs. Where OSMRE is the regulatory authority, we estimate that our information collection burden under part 800 would be as follows:

<b>Federal Programs</b>			
<b>Section of Part 800</b>	<b>Number of Responses</b>	<b>Burden per Response (Hours)</b>	<b>Total Burden Hours</b>
800.14	2	25	50
800.15	199	5	995
800.18	1	200	200
800.20	42	2	84
800.21	19	3	57
800.23	4	4	16
800.30	0	0.5	0
800.41	130	28	3,640
800.43	130	2	260
800.44	10	4	40
800.50	1	9	9
800.60	0	0	0
<b>TOTALS</b>	<b>0</b>		<b>0</b>

The wage cost estimates are as follows:

<b>Position</b>	<b>Grade</b>	<b>Cost per Hour*</b>	<b>Hourly Rate with Benefits (x 1.5**)</b>	<b>Percent of Time Spent on Information Collection</b>	<b>Weighted Average Hourly Rate</b>
Clerical	GS-7/10	\$24.65	\$36.98	10%	\$4
Physical Scientist	GS-12/10	\$43.73	\$65.60	40%	\$26
Engineer	GS-12/10	\$43.73	\$65.60	40%	\$26
Manager	GS-14/10	\$61.44	\$92.16	10%	\$9
<b>Weighted Average (\$/hour)</b>					<b>0</b>
<p>* U.S. Office of Personnel Management Salary Table 2015-RUS located at <a href="http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf">http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf</a>.</p> <p>** A multiplier of 1.5 [as implied by BLS news release USDL-15-0386 (see <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a>)] was added for benefits.</p>					

At an average wage rate of \$65 an hour, we estimate that our wage costs in federal program states for part 800 would be **\$347,815** (5,351 hours x \$65/per hour).

The estimated total cost to the federal government under Part 800 is **\$354,375** (\$6,560 for oversight + \$347,815 for federal programs).

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

The currently approved information collection clearance for 30 CFR Part 800 includes 112,627 burden hours. We are now requesting 92,028 burden hours for this part. This includes a program increase of 17,600 hours and a burden reduction of 38,199 hours to adjustments.

The requested change in information collection burden can be summarized as follows:

	112,627	hours currently approved
+	17,600	hours (program changes)
-	38,199	hours (adjustments for miscellaneous errors in prior entries and calculations)
	92,028	hours requested

This information collection request will reduce non-wage burden costs from \$1,510,214 to \$513,802, a reduction of \$996,412, primarily because of the reestimated in respondents in 30 CFR 800.40, which is partially offset by a \$6,000 program increase as a result of the proposed addition of 30 CFR 800.18. The remaining amount is a result of a correction of prior data entry and calculation errors.

- 16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.***

Not applicable. We have no plans to publish the information collected.

- 17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.***

Not applicable. We are not seeking a waiver from the requirement to display the expiration date of the OMB approval of the information collection.

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

Not applicable. There are no exceptions to the "Certification for Paperwork Reduction Act Submissions."