

**Supporting Statement A**  
**30 CFR Part 800 - Bond and Insurance Requirements for**  
**Surface Coal Mining and Reclamation Operations**  
**under Regulatory Programs**

**OMB Control Number 1029-0043**

**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.*

***Specific Instructions***

***Justification***

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

*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.*

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.*
  - \* *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.*
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.*

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.*
15. *Explain the reasons for any program changes or adjustments in hour or cost burden.*
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 topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."*

## **Introduction**

The Office of Surface Mining Reclamation and Enforcement (OSM or we) is submitting this information collection clearance request to renew its authority to collect information for 30 CFR Part 800 - Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs. The Office of Management and Budget (OMB) previously reviewed and approved this collection of information and assigned it control number 1029-0043.

The regulations at 30 CFR Part 800 primarily implement §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 §519 of the Act, liability insurance requirements pursuant to §507(f) of the Act, and procedures for bond forfeiture should the permittee default on reclamation obligations.

This submission represents a net decrease of 118,619 hours from the currently approved collection burden for 30 CFR Part 800, decreasing the burden for that part from 231,246 hours to 112,627. This request also represents a decrease of \$2,205,046 in non-wage costs.

There have been no regulatory changes in 30 CFR Part 800.

In general, each section of Part 800 for which there is an information collection requirement is discussed separately. However, the information collection requirements of 30 CFR 800.11, 800.17, and 800.70, all of which require that a person file a performance bond as a prerequisite for conducting surface coal mining operations, overlap with each other and with §§800.20, 800.21, and 800.23, which establish requirements associated with surety bonds, collateral bonds, and self-bonds, respectively. All bonds filed under §§800.11, 800.17, and 800.70 [including, at present, almost all bonds filed under an alternative bonding system approved pursuant to §800.11(e)] consist of surety bonds, collateral bonds, or self-bonds or some combination thereof. Therefore, to avoid duplication, this information collection request apportions the information collection burden for §§800.11, 800.17, and 800.70 among §§800.20, 800.21, and 800.23. There is no information collection burden for §800.30 because that section merely authorizes bond replacement in situations in which the permittee elects to replace existing bonds for reasons of its own choosing rather than situations in which the Act, regulations, or regulatory authority require bond replacement.

We are also submitting, for OMB approval, copies of the forms that we use to implement the information collection requirements of 30 CFR Part 800 in Federal program states. The burden for completing those forms has been incorporated into (and has always been a part of) the information collection burden for the various sections within this part.

The responses to some items in the instructions for the supporting statement are identical for each section; those responses appear on pages 8-10 of this document.

The following table summarizes the information collection requirements and changes to the current collection burden for Part 800.

INFORMATION COLLECTION SUMMARY FOR 30 CFR PART 800							
Section	Private sector responses	Hours per response	State responses	Hours per State	Total hours	Current hours	Change to hours
800.14	287	20	285	25	12,865	14,050	-1,185
800.15	0	0	3,084	4.90	15,115	27,714	-12,599
800.16	21	.5	7	.5	15	16	-1
800.20	968	10	926	2	11,532	15,680	-4,148
800.21	447	10.5	428	3	5,978	8,696	-2,718
800.23	74	16.10	70	4	1,471	2,010	-539
800.40	2,000	12	1,983	19.09	61,852	159,176	-97,324
800.50	0	0	94	5.05	475	396	79
800.60	1,662	2	0	0	3,324	3,508	-184
<b>Totals</b>	<b>5,459</b>		<b>6,877</b>		<b>112,627</b>	<b>231,246</b>	<b>-118,619</b>

NON-WAGE COST BURDEN FOR 30 CFR PART 800							
Section	Permittee responses	Cost per response	State responses	Cost per State	Total cost	Current cost	Change to costs
800.14	287	\$50	285	\$50	\$28,600	\$31,250	-\$2,650
800.15	0	0	815	\$50	\$40,750	\$55,000	-\$14,250
800.16	21	\$3	7	\$3	\$84	\$96	-\$12
800.20	0	0	0	0	0	0	0
800.21	0	0	0	0	0	0	0
800.23	0	0	0	0	0	0	0
800.40	2,000	\$605	1,870	\$123.27	\$1,440,522	\$3,628,680	-\$2,188,158
800.50	0	0	86	\$3	\$258	\$234	\$24
800.60	0	0	0	0	0	0	0
<b>Totals</b>	<b>2,308</b>		<b>3,063</b>		<b>\$1,510,214</b>	<b>\$3,715,260</b>	<b>-\$2,205,046</b>

## Items for Which Responses are Identical for All Sections

### Justification

3. Collection of information by automated methods generally is not practical because regulatory authorities, mining companies, and financial institutions normally use paper forms as bonding instruments, in part because of legal implications. Almost all respondents are (1) individual mining companies that submit bonds and apply for bond release on an as-needed basis, or (2) State regulatory authorities that determine bond amounts, review bond documents, and process bond release applications. An increasing number of respondents use automated media to store information relevant to the collections of information required for Part 800. Some State regulatory authorities use automation to calculate bond amounts.
4. The requested information is time-sensitive and unique to each applicant or surface coal mining operation. Since it is collected infrequently (generally only at the time of application for a permit, permit revision, permit renewal, or release of bond), duplication is minimal. 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 bonds for surface coal mining operations.
5. 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. If the requested information was not collected or was collected less frequently, OSM and State regulatory authorities would be less able to ensure that surface coal mining operations post and maintain viable performance bonds and liability insurance policies as required by §§509 and 507(f) of the Act. OSM 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 §519 of the Act. Finally, the ability of OSM and State regulatory authorities to forfeit bond and reclaim the affected acreage would be adversely impacted.
7. No collection of information for Part 800 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. In January and February of 2012, OSM contacted the following respondents to obtain their views on the information collection burden imposed by Part 800 and the clarity of the regulations:

Mr. Keith Smith  
Environmental Technologist III  
Kentucky Department for Natural Resources  
Division of Mine Permits  
2 Hudson Hollow Road  
Frankfort, KY 40601  
(502) 564-2320  
E-mail: [Keith.Smith@ky.gov](mailto:Keith.Smith@ky.gov)

Mr. Bill Adams  
Vice President  
Cumberland Surety, Inc.  
367 West Short Street  
Lexington, KY 40507  
(859) 254-8622  
E-mail: [badams@cumberlandsurety.com](mailto:badams@cumberlandsurety.com)

Doug Emme and Deanna Hill  
Wyoming Department of Environmental Quality  
Land Quality Division  
122 W. 25<sup>th</sup> Street, 3 West  
Cheyenne, WY 82002-0440  
(307) 777-6910  
E-mail: [doug.emme@wyo.gov](mailto:doug.emme@wyo.gov)  
E-mail: [deanna.hill@wyo.gov](mailto:deanna.hill@wyo.gov)

Monica Williams  
Thunder Basin Coal Company LLC, Coal Creek Mine  
PO Box 406  
Wright, WY 82732-0406  
(307) 464-2711  
E-mail: [MWilliams@archcoal.com](mailto:MWilliams@archcoal.com)

Tamara Bowling  
Administrative Assistant  
Office of Surface Mining Reclamation and Enforcement  
Knoxville Field Office, Technical Group  
710 Locust Street, 2<sup>nd</sup> Floor  
Knoxville, TN 37902  
(865)-545-4103, ext 176  
E-mail: [tbowling@osmre.gov](mailto:tbowling@osmre.gov)

We used information provided by these individuals as part of the process of calculating the total burden identified in the responses to items 12 and 13 for each section. We received no comments or suggestions from these individuals regarding the availability of data, frequency of collection, clarity of instructions, nor data elements reported.

[Note: Each regulatory authority has developed its own bonding forms to be completed in primacy States. Therefore, the information collected in the bonding forms may vary from State to State.]

On March 2, 2012, OSM published in the Federal Register (77 FR 12879) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. We received one comment for this information collection request. The commenter expressed concern that bond amounts are not adequate to cover the cost of reclamation if the operator should forfeit their bond, requiring taxpayers to fund reclamation. However, section 509 of SMCRA and 30 CFR Part 800 require that bonds be in an amount adequate to complete the reclamation plan in the event of bond forfeiture.

9. Not applicable. OSM and State regulatory authorities provide no payments or gifts to respondents.
10. The Act and Federal regulations do not authorize information concerning performance bonds and insurance 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). The latter exception does not apply to performance bonds and insurance policies.
11. Not applicable. There are no questions of a sensitive nature.
12. The estimated wage costs were provided by Arch Coal Company in February 2012. The estimated wage costs to State employees were found on the BLS website at [http://www.bls.gov/oes/current/naics4\\_999200.htm#b17-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b17-0000). The estimated wage cost for a securities lawyer was found on the BLS website at [http://www.bls.gov/oes/current/naics4\\_212100.htm#00-0000](http://www.bls.gov/oes/current/naics4_212100.htm#00-0000). We have included benefits based on a multiplier of 1.4 times the wage costs for private industry, and a 1.5 multiplier for State employee wage costs. These benefits multipliers are derived from BLS news release USDL-12-0158, dated January 31, 2012, and may be found at: <http://www.bls.gov/news.release/pdf/eci.pdf>.
14. Federal wage costs were derived from the Office of Personnel Management's wage table found at [http://www.opm.gov/oca/12tables/html/RUS\\_h.asp](http://www.opm.gov/oca/12tables/html/RUS_h.asp). We have included benefits based on a multiplier of 1.5 times the wage costs for Federal employees based on the BLS news release found at: <http://www.bls.gov/news.release/pdf/eci.pdf>.
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 for Paperwork Reduction Act Submissions.”

## **30 CFR 800.14 - Determination of bond amount**

Note: The burden estimates and discussions in the supporting statement for this section include only the burden associated with determining the amount of bond required for a new permit application. The burden associated with determining changes in bond amounts as a result of permit revisions is discussed in the supporting statement for 30 CFR 800.15 and is included in the burden for that section.

### Justification

1. Section 509(a) of the Act and 30 CFR 800.14 of the regulations require that the regulatory authority determine the amount of bond required for surface coal mining and reclamation operations.
2. OSM and State regulatory authorities under SMCRA use this information to ensure that persons who conduct or intend to conduct surface coal mining and reclamation operations file the amount of performance bond required by §509(a) of the Act and §800.14; i.e., an amount sufficient to ensure completion of the reclamation plan in the event that the regulatory authority has to perform the work under conditions of bond forfeiture.
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 data from State-specific annual evaluation reports for the 2010 evaluation year, the 24 State regulatory authorities will receive approximately 285 applications for new permits each year (and will issue 247 new permits) and OSM will receive approximately 2 applications where we are the regulatory authority. (See Appendix A for the 2010 evaluation year.) The difference in the number of permit applications received and the number of permits issued in a given year is attributable to factors such as the timing of the application relative to the evaluation year, as well as the fact that not all permit applications result in an issued permit. The states of Kentucky, Pennsylvania, and West Virginia received 235 (82%) of the new permits in 2010.

### **Burden on Mine Applicants**

For each new permit application the applicant must prepare and submit an estimated bond amount calculation for the permit. Although §800.14 does not state that permit applicants provide this bond calculation, it is standard practice. Therefore, we are including it as a permittee burden.

Based on discussions with those identified in item 8 and OSM expertise, each permit applicant will require between 8 hours and 360 hours, and an average of 20 hours, to complete the bond calculation estimates and send them to the regulatory authority. Western mines, such as those in Wyoming where we surveyed, are typically much larger, more unique and complex, and require collecting background data that is not as readily available as many other mines. The Wyoming operator estimated that they expend 360 hours for a “large” mine (greater than 100 million tons per year) and 270 hours for a “small” mine (less than 10 million tons per year) to calculate the bond. This contrasts with the many smaller mines in the Appalachian coal fields where there is much more background data and completed studies available to shorten the time associated with calculating the bond estimate for a new permit. Therefore, the total burden incurred by permittees is **5,740 hours** (20 hours x 287 applications).

### **Burden on State Regulatory Authorities**

For each new permit application, the regulatory authority must review the permit applicant’s bond calculations, then compile their own bonding calculations to determine the bond amount for permit issuance. Some states, such as Kentucky, use an EXCEL spreadsheet where data can be quickly and easily entered, and that performs the calculations and greatly simplifies the process. Based on OSM’s experience in situations where it is the regulatory authority, and discussions with the State regulatory authority contacted under item 8, we estimate that regulatory authorities need 2 hours to 80 hours, with an average of 25 hours, to calculate the amount of bond required for a new permit. This number varies depending on the size and complexity of the proposed operation; the topography, geology, and hydrology of the site; the experience of the person doing the calculations; potential reclamation difficulties; and if a site visit is necessary.

Therefore, OSM estimates that the total burden to the 24 State regulatory authorities to comply with the information requirements of §800.14 is **7,125 hours** (285 new permit applications received by the States x 25 hours per application).

Therefore, the total burden to all respondents is **12,865 hours** (5,740 hours for permit applicants + 7,125 hours for State regulatory authorities).

b. Estimated Annual Wage Cost to Respondents

We estimate the following wage costs (rounded) required to complete the collection for this section:

Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$) (including benefits)	Total Wage Burden (\$)
Clerical	1	35	35
Engineering Technician	12	49	588
Mining Engineer	7	63	441
Total	20		1,064

Therefore, the estimated total annual wage cost for each permit applicant for §800.14 is \$1,064. The total wage cost to all industry respondents is \$1,064 x 287 permits = \$305,368.

In addition, it takes 25 hours for each State regulatory authority to review and recalculate the bond estimates for each permit application.

We estimate that the wage costs to State civil engineers and others who process this information to be \$55.19 per hour (rounded and including benefits). Therefore, the estimated annual wage cost for SRA's to review and recalculate bonding is \$55.19 per hour x 25 hours = \$1,380, and the total wage cost for all State regulatory authorities is \$393,300 (\$1,380 x 285 permits).

Therefore, the total wage cost to all respondents is \$698,668 (\$305,368 + \$393,300).

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

OSM estimates that the annual non-wage cost burden to the permit applicants and the 24 State regulatory authorities for compliance with §800.14 is \$50 per new permit

application, principally for possible travel to the mine site, updating reference materials, and copying. Therefore, for applicants, 287 permit applications x \$50 = \$14,350. For State regulatory authorities, 285 permit applications received x \$50 = \$14,250. The total cost is \$28,600.

b. Operation and Maintenance Costs

Compliance with §800.14 does not involve any operation and maintenance costs apart from those associated with customary business activities.

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 §800.14 in the absence of any indication of programmatic problems. We assume that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 80 hours for a GS 13/1 regulatory program specialist earning \$58.82 per hour with benefits (see item 14, page 9 for details) . Therefore, the annual cost to the Federal will be \$4,706 (rounded).

Federal Programs: Based upon data collected in 2010, OSM estimates that it will annually receive approximately 2 permit applications for which we are the regulatory authority. Because we do not use an alternative bonding system, the time required to assess the amount of bond for each application is estimated to be 40 hours. At an average salary of \$58.82 per hour for a GS 13/1, civil engineer, the annual wage cost to the Federal government to determine bond amounts for new permit applications is \$4,706 (2 applications x 40 hours per application x \$58.82 per hour). Non-wage costs, primarily for travel to the mine site, updating reference materials, and copying, total an estimated \$100 (2 applications x \$50 per application) per year. Total annual Federal program costs are estimated to be \$4,806 (\$4,706 for wage costs + \$100 non-wage costs).

Total Federal Cost

\$4,706 Oversight  
+ \$4,806 Federal Programs  
\$9,512 Total Federal Cost

15. The currently approved burden hours for §800.14 is 14,050 hours. OSM is now requesting 12,865 burden hours for this section. This decrease is due to a decrease in the number of permit applications being received.

14,050 hours currently approved  
- 1,185 hours due to a decrease in the number of permit applications  
12,865 hours requested

This request includes a non-wage cost of \$28,600. This represents a reduction of \$2,650 due to adjustments.

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

## **30 CFR 800.15 - Adjustment of amount**

Note: The burden estimates and discussions in this supporting statement apply only to the burden on the regulatory authority. The burden on permittees of actually adjusting the bond is included in the burdens for 30 CFR 800.20, 800.21, and 800.23.

### Justification

1. Section 509(e) of the Act provides that the regulatory authority must adjust the amount of bond required and the terms of acceptance from time to time as the acreage of affected land increases or decreases or the cost of future reclamation changes. Paragraph (a) of §800.15 includes a similar provision. Paragraph (c) clarifies that bond reductions under this provision need not be processed as bond releases.

Paragraph (b) of §800.15 requires that, prior to ordering an adjustment, the regulatory authority notify the permittee, the surety, and any person with an interest in collateral posted as bond. This paragraph also allows the permittee to request an informal conference on the proposed adjustment. These provisions are intended to protect the rights of the permittee and parties with an interest in the bond.

Paragraph (d) of §800.15 requires that the regulatory authority reevaluate bond adequacy as part of the process of reviewing an application for a permit revision. This provision is intended to ensure that the bond amount remains sufficient to complete the reclamation plan in the event of bond forfeiture, as required by §509(a) of the Act. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules and regulations to carry out the purposes and provisions of the Act, authorizes collection of this information.

2. OSM and State regulatory authorities under SMCRA use this information to ensure that persons who conduct or intend to conduct surface coal mining and reclamation operations maintain the amount of performance bond required by §509(a) of the Act, i.e., an amount sufficient to ensure completion of the reclamation plan in the event that the regulatory authority has to perform the work under conditions of bond forfeiture.

Persons receiving notification of proposed bond adjustments pursuant to §800.15(b) use this information to protect their rights and interests. Timely notification is essential to ensure that potentially affected parties are able to exercise their informal review and appeal rights.

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

In OSM's experience, bond adjustments of the nature addressed by this section occur only in connection with permit revisions. Based upon data from State-specific annual evaluation reports for the 2010 evaluation year, OSM estimates that the 24 State regulatory authorities receive approximately 3,084 applications for permit revisions each year (721 for incidental boundary revisions, 244 for additional acreage revisions, and 2,119 for other revisions), excluding applications for the transfer, sale, or assignment of permit rights (Appendix A).

Consultations with regulatory authorities, coupled with OSM's experience in situations where it is the regulatory authority, indicates that the time required reviewing permit revision applications to determine whether a bond adjustment is necessary ranges from 0.5 hours to 20 hours, depending on the nature of the proposed revision and the number of increments to be bonded. The estimated average time needed is 2 hours.

Based on consultations with regulatory authorities and OSM staff in Tennessee (where OSM is the regulatory authority), OSM estimates that 80% of incidental boundary revisions and amendments and approximately 10% of all other permit revision applications require a bond adjustment. The 80% figure is based upon new information from Tennessee and Wyoming, and represents a reduction from the 100% that was used in the last information collection request. Data for the 2010 evaluation year indicate that State regulatory authorities process approximately 3,084 permit revision applications per year. Of this total, approximately 806 revision applications processed by State regulatory authorities require bond adjustments [80 % of 721 boundary revisions + 10% of (244 amendments + 2,119 for other amendments)]. As noted in the supporting statement for §800.14, OSM estimates that, on average, a State regulatory authority needs 25 hours to calculate the amount of bond required for issuing a new permit. Based upon consultation with regulatory authorities, recalculating the required bond amount to reflect the impact of a permit revision requires less time, approximately 10 hours. This is a decrease in the previously used 18 hours, which is attributed to time saving spreadsheets and other computer programs used by regulatory authorities to recalculate the bond.

Likewise, information from regulatory authorities indicate that providing notice to interested parties under paragraph (b) of this section requires an average of 1 hour for each permit revision application that involves a bond adjustment.

Therefore, OSM estimates that the total burden to the 24 State regulatory authorities to comply with the information requirements of §800.15 is **15,115 hours**, broken down as follows:

- 6,150 hours to review permit revision applications to determine whether a bond adjustment may be appropriate (3,075 permit revision applications x 2 hours per revision).
- 8,150 hours to determine the size of the bond adjustment (815 permit revision applications that involve a bond adjustment x 10 hours per application).
- 815 hours to notify persons with an interest in the bond being adjusted (815 permit revision applications that involve a bond adjustment x 1 hour per application).

b. Estimated Annual Wage Cost to Respondents

We estimate that the wage costs to State civil engineers and others who process this information to be \$55.19 per hour (rounded and including benefits). Therefore, the estimated annual wage cost for SRA's to prepare bond adjustments is \$55.19 per hour x 15,115 hours = \$834,197.

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

OSM estimates that the annual non-wage cost burden to the 24 State regulatory authorities for compliance with §800.15 averages approximately \$50 for each permit revision application that involves a bond adjustment, principally for travel to the mine site, updating reference materials, office supplies, and copying, for a total of **\$40,750** (815 permit revision applications that involve a bond adjustment x \$50 per application).

b. Operation and Maintenance Costs

Compliance with §800.15 does not involve any operation and maintenance costs apart from those customary business practices.

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 §800.15 in the absence of any indication of programmatic problems. We assume that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 40 hours for a GS 13/1 regulatory program specialist earning \$51.51 per hour with benefits (see item 14, page 9 for details) . Therefore, the annual cost to the Federal will be **\$2,060** (rounded).

Federal Programs: Based upon data collected in 2010, OSM estimates that it will annually processes approximately 199 applications for permit revisions (Appendix B) for lands and operations for which OSM is the regulatory authority. Reviewing those applications to determine whether a bond adjustment may be appropriate requires an average of 2 hours, with a total review burden of 398 hours (199 permit revision applications x 2 hours per application).

An estimated 35 [(80% of 22 incidental boundary revisions = 17.6) + (10% of approximately 177 of all others = 17.7)] of those applications involve bond adjustments. As noted in the supporting statement for §800.14, OSM needs an average of 25 hours to calculate the amount of bond required for a new permit. In OSM's experience, recalculating the required bond amount to reflect the impact of a permit revision requires somewhat less time, an average of approximately 10 hours. Hence, this activity requires a total of 350 hours (35 applications x 10 hours each).

Providing notice to interested parties under 30 CFR 800.15(b) requires an average of 1 hour for each permit revision application that involves a bond adjustment. This item adds a burden of 35 hours (35 applications x 1 hour per application).

Therefore, the total Federal Program burden to comply with the information requirements of 30 CFR 800.15 is 783 hours (398 hours to review permit revision applications to determine whether a bond adjustment may be required + 350 hours to determine the size of the bond adjustment + 35 hours to notify persons with an interest in the bond being adjusted and conduct informal conferences on proposed bond adjustments). At an average salary of \$51.51 per hour (including benefits), the annual wage cost to the Federal government to determine bond amounts for new permit applications is **\$46,056** (783 hours x \$58.82 per hour).

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Non-wage costs, primarily for travel to the mine site, updating reference materials, office supplies, and copying, total an estimated **\$1,750** (35 permit revision applications that involve a bond adjustment x \$50 per application) per year.

Total Federal Cost:

\$ 2,060	Oversight
+ \$ 46,056	Federal programs
+ <u>\$ 1,750</u>	Non-wage costs
\$ \$ 49,866	Total Federal cost

15. The currently approved information collection burden for §800.15 totals 27,714 hours. As discussed in item 12.a., we now estimate that the total burden to the 24 State regulatory authorities to comply with the information requirements of §800.15 is 15,115 hours. This 12,599 hour decrease results from three factors based upon more recent data: a decrease in the number of permit revision applications being received, the fact that not all incidental boundary revisions need to have their bond recalculated, and a decrease in the number of hours to recalculate the bond.

Therefore, the burden for §800.15 will change as follows:

27,714	hours currently approved
- <u>12,599</u>	hours due to adjustments
15,115	hours requested

This request includes a non-wage cost of \$40,750. This represents a reduction of \$14,250 due to adjustments.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **30 CFR 800.16 - General terms and conditions of bond**

### Justification

1. Under 30 CFR 800.16(e), a bank or surety company that underwrites a performance bond under SMCRA must promptly notify the regulatory authority and the permittee if the bank is declared insolvent, the surety company files for bankruptcy, or either entity loses its charter or license to do business. The permittee also has an obligation to report any such incapacity to the regulatory authority, which must then notify the permittee of the need to obtain a replacement bond within 90 days.

These requirements are necessary to ensure that all surface coal mining and reclamation operations remain fully bonded in accordance with §509 of the Act. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules and regulations to carry out the purposes and provisions of the Act, authorizes collection of this information.

2. OSM and State regulatory authorities rely upon notifications from permittees, banks, and surety companies to determine when a properly executed surety or collateral bond ceases to be viable because of the incapacity of the bank or surety company. Subsequent regulatory authority notification of the permittee of the need to obtain replacement coverage is essential to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture, as required by §509(a) 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

Bank insolvencies and surety company bankruptcies are rare and occur at unpredictable frequencies. For purposes of this analysis, OSM is assuming that the notification requirements of §800.16(e) will apply to 0.1% of the surety and collateral bonds in existence in any one year. OSM estimates that 95% of all inspectable units (mines and related facilities) rely upon surety or collateral bonds. Therefore, based upon data from State-specific annual evaluation reports for the 2010 evaluation year, OSM estimates that the notification requirements of §800.16(e) apply to approximately 7 inspectable units each year [ $0.001 \times 0.95 \times 7,505$  total inspectable units (for State and OSM regulatory authorities) (Appendices A and B)]. Based on the same data, States would have primary regulatory authority for all 7 of the affected units.

According to OSM's experience in situations where it is the regulatory authority, preparing and mailing each notification requires an average of 0.5 hour. Each affected bond involves four notifications:

- One from the bank or surety company to the permittee;
- One from the bank or surety company to the regulatory authority;
- One from the permittee to the regulatory authority; and
- One from the regulatory authority to the permittee.

Therefore, OSM estimates that the aggregate information collection burden on banks and surety companies would be 7 hours (7 affected bonds x 2 notifications per bond x 0.5 hour per notification); the burden on permittees would be 3.5 hours (7 affected bonds x 1 notification per bond x 0.5 hour per notification); and the burden on State regulatory authorities would be 3.5 hours (7 affected bonds x 1 notification per bond x 0.5 hour per notification). The total burden to all respondents to comply with the information requirements of §800.16 is an estimated **14 hours** (7 hours for banks and surety companies + 3.5 hours for permittees + 3.5 hours for State regulatory authorities).

Due to rounding requirements in OMB's computer system, OSM is estimating the burden for this section to be **15 hours** (11 hours for banks and permittees + 4 hours for States).

b. Estimated Annual Wage Cost to Respondents

We estimate that the wage costs to surety company lawyers to be \$114 per hour x 7 hours = \$798, the estimated wage costs to coal industry lawyers would be \$114 x 3.5 hours = \$399, and the estimated wage costs to State civil engineers would be \$55.19 x 3.5 hours = \$179. Therefore, the wage cost to all respondents would be \$1,376 (\$798 for surety lawyers + \$399 for permittee lawyers + \$179 for State engineers.)

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

OSM estimates that the annual non-wage capital and start-up cost burden to respondents for compliance with §800.16 is approximately \$3 per notification, principally for delivery charges, for a total of **\$84** [(14 notifications for banks and surety companies + 7 notifications for permittees + 7 notifications for State regulatory authorities) x \$3 per notification].

b. Operation and Maintenance Costs

The notification requirements of 30 CFR 800.16(e) do not involve any operation and maintenance costs apart from expenditures associated with customary business practices.

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 §800.16 in the absence of any indication of programmatic problems. Assuming that OSM conducts an oversight review of this topic in one State program per year and that each review requires an average of 4 hours, the annual cost to the Federal government for this oversight activity is \$315, assuming a GS 14/5 lawyer reviewing the notices at \$78.77 per hour (rounded and including benefits).

Federal Programs: As noted in item 12.a., based upon data collected for the agency's annual report for the 2010 evaluation year, OSM estimates that 0 of the 7 inspectable units affected annually will be a unit for which OSM is the regulatory authority. However, should bond replacement under this section be necessary for one mine, the annual wage cost to the Federal government to provide the required notification would be an estimated \$40 (1 affected bond x 1 notification per bond x 0.5 hour per notification x \$78.77 per hour for a GS 14/5 lawyer). Non-wage costs, primarily for delivery charges, would total an estimated \$3 (1 notification x \$3 per notification) per year. Total annual Federal program costs in the event of one replacement would be an estimated \$43 (\$40 wage costs + \$3 non-wage costs).

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost

\$ 315 Oversight  
+ \$ 43 Federal Programs  
\$ 358 Total Federal Cost

15. The total burden to all respondents (banks and surety companies, permittees, and State regulatory authorities) to comply with the information requirements of §800.16 is

estimated to be **15 hours** (rounded). This represents a small decrease from the 16 hours in the currently approved collection burden for this section.

This request includes a non-wage cost of \$84. This represents a reduction of \$12 due to adjustments.

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

## **30 CFR 800.20 - Surety bonds**

### Justification

1. Under §509(a) of the Act and §§800.11, 800.17, and 800.70, a person seeking a permit to conduct surface coal mining operations must 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. Section 509(e) of the Act and §800.15 provide that the regulatory authority must adjust the amount of bond required and the terms of acceptance from time to time as the acreage of affected land increases or decreases or the cost of future reclamation changes. Section 800.30 allows permittees to replace bonds for any reason when authorized by the regulatory authority.

Section 509(b) of the Act and §800.12 provide that one acceptable type of bond is a surety bond. Like §509(b) of the Act, §800.20(a) requires that a surety bond be executed between the operator and a corporate surety licensed to do business in the State in which the operation is located.

2. Permittees use surety bonds to meet the performance bond requirements of the Act and regulatory program. OSM and State regulatory authorities rely upon properly executed surety bonds with viable corporate surety firms to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture.
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 upon OSM's experience as a regulatory authority and data from the State-specific annual evaluation reports for the 2010 evaluation year, OSM estimates that permittees annually file approximately 1,489 bond instruments with OSM and the 24 State regulatory authorities under SMCRA. This number includes the following components:

- 287 initial bonds for new permits. (*Appendices A and B*)
- 304 bond adjustments in concert with permit revisions. (*Appendices A and B*)

[Based on our experience as a regulatory authority, approximately 10% of all permit revision applications involve a bond adjustment. This percentage varies widely among the States. It is likely highest in Kentucky, where 175 of the 540 permit revisions were permit amendments involving the addition of acreage. In 2010, OSM and State regulatory authorities actually received 3,039 permit revision applications (*Appendices A and B*).  $0.1 \times 3,039$  total permit revision applications = 304 permit revision applications involving a bond adjustment.]

- 244 bonds for additional acreage within an existing permit area in accordance with an incremental schedule or similar arrangement. (*Appendices A and B*)
- 654 replacement bonds filed in concert with an application for the transfer, assignment, or sale of permit rights. (*Appendices A and B*)

OSM's experience as a regulatory authority and other evidence indicates that 65% of all performance bonds filed under SMCRA are surety bonds. Hence, OSM estimates that permittees file approximately 968 surety bonds each year ( $0.65 \times 1,489$  total bonds of all types). OSM estimates that obtaining a surety bond and submitting it to the regulatory authority requires about 10 hours of effort from the permittee based on OSM's experience and prior industry contacts. The burden to secure a surety is about 9,680 hours (968 surety bonds  $\times$  10 hours per bond).

OSM also estimates that State regulatory authorities receive approximately 926 surety bonds, while OSM received the remaining 42 for lands on which they are the regulatory authority. Since it takes the State regulatory authority 2 hours to review requests, prepare and send decisions to those who obtain a surety bond, the burden to State regulatory authority is 1,852 hours (926 surety bonds  $\times$  2 hours).

Therefore, the total burden to all respondents to comply with the information requirements of §800.20 is **11,532 hours** (9,680 for permittees + 1,852 for State regulatory authorities).

b. Estimated Annual Wage Cost to Respondents

We estimate the following wage costs (rounded) required to complete the collection for this section:

Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$) (including benefits)	Total Wage Burden (\$)
Clerical	1	35	35
Lawyer	2	114	228
Accountant	7	46	322
Total	10		585

Therefore, the estimated total annual wage cost for each permit applicant for §800.20 is \$585. The total wage cost to all industry respondents is \$585 x 968 surety bonds = \$566,280.

In addition, it takes 2 hours for each State regulatory authority to review and recalculate the bond estimates for each permit application.

We estimate that the wage costs to State accountants who process this information to be \$40.71 per hour (including benefits). Therefore, the estimated total annual wage cost for State regulatory authorities to review and recalculate bonding for §800.20 of each surety bond received and processed is \$40.71 per hour x 2 hours = \$81.42. The total wage cost to all State regulatory authorities is \$81.42 x 926 surety bonds = \$75,395.

Therefore, the total wage cost to all respondents is \$641,675 (\$566,280 + \$75,395).

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of §§800.11, 800.17, 800.20, 800.30, and 800.70 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with maintaining surety bond information by the regulatory authority.

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 §800.20 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 30 hours, the annual cost to the Federal government for a GS 12/5 accountant earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be \$1,682.

Federal Programs: As noted in item 12.a., OSM estimates that permittees annually submit 968 surety bonds, of which 926 are filed with State regulatory authorities. The remaining 42 are filed with OSM for lands and operations for which OSM is the regulatory authority. [This ratio is based on the fact that States regulate 96% of all inspectable units (rounded) in 2010.] Processing each surety bond requires an average of 2 hours, with a total burden of 84 hours (42 surety bonds x 2 hours per bond). At an average wage rate of \$56.06 per hour for a Federal accountant (including benefits), the annual wage cost to the Federal government for this activity is an estimated \$4,709 (84 hours x \$56.06 per hour). There are no significant or distinct non-wage costs.

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost:

\$ 1,682	Oversight
+ \$ 4,709	Federal programs
\$ 6,391 Total Federal cost	

15. The currently approved collection package for §800.20 includes 15,680 burden hours. OSM is now requesting 11,532 burden hours for this section. This 4,148 hour decrease is due to a decrease in the number of permittee bond revisions. Therefore, the burden changes as follows:

15,680	hours currently approved
- 4,148	hours due to an adjustment
11,532 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.

## 30 CFR 800.21 - Collateral bonds

### Justification

1. Section 509(b) of the Act provides that an operator may elect to deposit cash, negotiable State or Federal government bonds, or negotiable certificates of deposit of any bank in lieu of a surety bond. The definition of “collateral bond” at 30 CFR 800.5(b) expands the list of acceptable alternatives to a surety bond to include municipal bonds, irrevocable letters of credit from a bank, a perfected first-lien interest in real property in favor of the regulatory authority, and certain investment-grade securities. This expansion is based on section 509(c) of the Act, which authorizes the Secretary to approve alternatives that will meet the objectives and purposes of the bonding program.

Section 509(b) of the Act specifies that cash and the market value of securities must be equal to or greater than the amount of bond required for the bonded area. To implement this provision and to ensure that the collateral is unencumbered, financially viable, and fully accessible in the event of forfeiture, §800.21 requires that the permittee submit either the collateral itself or assorted descriptive and explanatory information to the regulatory authority. For the same reason, §800.21(e)(2) requires that the regulatory authority reevaluate the bond value of all collateral at the time of permit renewal. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules and regulations to carry out the purposes and provisions of the Act, authorizes collection of this information.

Under §800.21(f), persons (normally a financial institution) with an interest in collateral posted as a bond who desire notification of regulatory authority actions concerning the bond must request such notification at the time that the collateral is offered as a bond. This provision, which also is authorized by §201(c)(2) of the Act, is intended to ensure that the regulatory authority is aware of all persons with an interest in the collateral.

2. Permittees use collateral bonds to meet the performance bond requirements of the Act and regulatory program. OSM and State regulatory authorities rely upon properly executed collateral bonds to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture. OSM and State regulatory authorities also rely upon the collateral documents or related information submitted by the permittee to determine the value, financial viability, liquidation costs, and accessibility of the proffered collateral.

Persons with an interest in the collateral, normally a financial institution, rely upon the notification provision of §800.21(f) to ensure that they are informed of any regulatory authority actions that may affect their interest in the bond. Timely notification is necessary to preserve that person's informal review and appeal rights.

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

As detailed in item 12.a. of the supporting statement for 30 CFR 800.20, OSM estimates that permittees annually file 1,489 bond instruments with OSM and the 24 State regulatory authorities under SMCRA.

OSM's experience as a regulatory authority and prior contact with industry personnel indicate that approximately 30% of all performance bonds filed under SMCRA are collateral bonds. Hence, OSM estimates that permittees file approximately 447 collateral bonds each year ( $0.3 \times 1,489$  total bonds of all types). OSM estimates that obtaining a collateral bond and submitting it and all pertinent information to the regulatory authority requires about 10 hours of effort by the permittee. Therefore, the total burden to permittees to comply with the information requirements of §800.21 is **4,470 hours** (447 collateral bonds x 10 hours per bond) per year.

OSM estimates that one person, (normally a financial institution), will request notification pursuant to §800.21(f) for each collateral bond filed. Preparing and filing each request with the regulatory authority requires an estimated 0.5 hour. Therefore, the total burden associated with those requests is **224 hours** (447 collateral bonds x 1 request per bond filed x 0.5 hour per request) per year.

From information gathered in item 8, OSM estimates that it will take the State regulatory authority about 3 hours to review requests, prepare and send decisions to those requesting a collateral bond. Of the 447 collateral bonds, 428 are submitted to the State regulatory authorities and 19 with OSM. Therefore, the burden to State regulatory authority is **1,284 hours** (428 collateral bonds x 3 hours).

The combined burden for permittees and persons requesting notification, and State regulatory authorities to comply with the information requirements of §800.21 is an estimated **5,978 hours** (4,470 hours for permittees + 224 hours for persons requesting notification + 1,284 hours for State regulatory authorities).

b. Estimated Annual Wage Cost to Respondents

We estimate the following wage costs (rounded) required to complete the collection for this section:

Private Sector Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$) (including benefits)	Total Wage Burden (\$)
Clerical	1	35	35
Lawyer	2.5	114	285
Accountant	7	46	322
Total	10.5		642

Therefore, the estimated total annual wage cost for each permit applicant for §800.21 is \$642. The total wage cost to all industry respondents is \$642 x 447 surety bonds = \$286,974.

In addition, it takes 3 hours for each State regulatory authority to review and recalculate the bond estimates for each permit application. This a reduction of 1 hour of the previous hourly estimate, based on new state data.

We estimate that the wage costs to State accountants who process this information to be \$40.71 per hour (including benefits). Therefore, the estimated total annual wage cost for State regulatory authorities to review and recalculate bonding for §800.21 of each collateral bond received and processed is \$40.71 per hour x 3 hours = \$122. The total wage cost to all State regulatory authorities is \$122 x 428 collateral bonds = \$52,216.

Therefore, the total wage cost to all respondents is \$339,190 (\$286,974 + \$52,216).

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of §§800.11, 800.17, 800.21, 800.30, and 800.70 that apply to permittees and other persons with an interest in the bond do not involve any

capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operation or maintenance costs associated with obtaining and submitting a collateral bond or requesting notification under §800.21(f).

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 §800.21 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 30 hours, the annual cost to the Federal government for a GS 12/5 accountant earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be \$1,682.

Federal Programs: As noted in item 12.a., OSM estimates that permittees annually submit 447 collateral bonds, of which 428 are filed with State regulatory authorities and the remaining 19 are filed with OSM for lands and operations for which OSM is the regulatory authority. Processing each collateral bond requires an average of 4 hours, with a total burden of 76 hours (19 collateral bonds x 4 hours per bond). At an average wage rate of \$56.06 per hour for a Federal accountant (including benefits), the annual wage cost to the Federal government for this activity is an estimated \$4,261 (76 hours x \$56.06 per hour). There are no significant or distinct non-wage costs.

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost:

\$ 1,682	Oversight
+ <u>\$ 4,261</u>	Federal programs
<u>\$ 4,982</u> Total Federal cost	

15. The currently approved information collection package for 30 CFR 800.21 includes 8,696 burden hours. OSM is now requesting 5,978 burden hours for this section. The 2,718 hour decrease results from the lower number of revisions currently being received since the prior submissions, as well as the slight decrease in the number of hours the states need to review the submittals. Therefore, the burden changes as follows:

8,696	hours currently approved
- <u>2,718</u>	hours due to an adjustment
5,978 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.

## **30 CFR 800.23 - Self-bonding**

### Justification

1. Section 509(c) of the Act provides that the regulatory authority may accept the bond of the applicant itself (a “self-bond”) without separate surety when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond the requisite amount. To implement this provision, OSM adopted 30 CFR 800.23, which prescribes the documentation, financial statements, and affidavits that a company must submit to demonstrate that it meets the requirements for self-bonding.

Under §800.23(g), the permittee must notify the regulatory authority any time that the financial conditions of the permittee or corporate guarantor change in a manner that would render the pertinent entity ineligible for self-bonding. The permittee must then obtain a replacement bond within 90 days. These requirements are necessary to ensure that all surface coal mining and reclamation operations remain fully bonded in accordance with section 509 of the Act. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules to carry out the purposes and provisions of the Act, authorizes collection of this information.

2. Permittees use self-bonds to meet the performance bond requirements of the Act and regulatory program. OSM and State regulatory authorities rely upon the information submitted under §800.23 to ensure that only eligible entities receive approval to self-bond and that the self-bond documents are legally binding on the permittee or corporate guarantor. These information collection requirements are necessary to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture.

OSM and State regulatory authorities also rely upon the notification required by §800.23(g) as the most expeditious means of determining when a permittee with a properly executed self-bond ceases to be eligible for self-bonding because of changes in the financial position of the permittee or corporate guarantor. Obtaining replacement coverage is essential to ensure that funds are available to complete the reclamation plan in the event of bond forfeiture, as required by §509(a) 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

As detailed in item 12.a. of the supporting Statement for 30 CFR 800.20, OSM estimates that permittees annually file 1,489 bond instruments with OSM and the 24 State regulatory authorities under SMCRA.

OSM's experience as a regulatory authority, prior contact with industry personnel and other evidence indicates that 5% of all performance bonds filed under SMCRA are self-bonds. Hence, OSM estimates that permittees file approximately 74 self-bonds each year ( $0.05 \times 1,489$  total bonds of all types). OSM estimates that completing the forms and obtaining and submitting the information needed to apply for a self-bond requires about 16 hours of effort by the permittee. Therefore, the total burden to permittees to obtain self-bonds is **1,184 hours** (74 self-bonds  $\times$  16 hours per bond) per year.

The extent to which self-bonded entities experience a negative change in their financial condition of a magnitude necessary to require notification to the regulatory authority under §800.23(g) is unpredictable. For the purpose of this exercise, OSM estimates that such notification will be necessary for 1% of all self-bonds each year. Preparation and submittal of each notification requires an average of one hour. Therefore, the total burden to permittees to provide notification under §800.23(g) is about **7 hours** ( $0.1 \times 74$  total self-bonds  $\times$  1 hour per notification) per year.

OSM estimates that it will take the State regulatory authority about 4 hours to review the 70 requests they receive in primacy States. This burden includes the time to prepare and send decisions to those requesting a self-bond. The burden to State regulatory authority is **280 hours** (70 self-bonds  $\times$  4 hours).

The combined burden for permittees and State regulatory entities to comply with the information requirements of 30 CFR 800.23 is an estimated **1,471 hours** (1,184 hours to obtain self-bonds + 7 hours to provide notification + 280 hours for State regulatory authorities) per year.

- b. Estimated Annual Wage Cost to Respondents

We estimate the following wage costs (rounded) required to complete the collection for this section:

### Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$) (including benefits)	Total Wage Burden (\$)
Clerical	1	35	35
Lawyer	3	114	342
Accountant	12	46	552
Total	16		929

Therefore, the estimated total annual wage cost for each permit applicant for §800.23 is \$929. The total wage cost to industry respondents to submit self-bonds is \$929 x 74 self-bonds = \$68,746.

In addition, those who must submit notification of a negative change in their financial condition would experience a wage cost of \$114 per hour for a lawyer x 7 notifications x 1 hour = \$798. Therefore, the wage cost to all industry respondents is \$69,544 (\$68,746 + \$798).

In addition, it takes 4 hours for each State regulatory authority accountant to review and recalculate the bond estimates for each permit application.

We estimate that the wage costs to State accountants who process this information to be \$40.71 per hour (including benefits). Therefore, the estimated total annual wage cost for State regulatory authorities to review and recalculate bonding for §800.23 of each self-bond received and processed is \$40.71 per hour x 4 hours = \$163. The total wage cost to all State regulatory authorities is \$163 x 70 self-bonds = \$11,410.

Therefore, the total wage cost to all respondents is \$80,954 (\$69,544 + \$11,410).

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

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

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

The information collection requirements of §800.11, 800.17, 800.23, 800.30, and 800.70 that apply to permittees and guarantors do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

#### b. Operation and Maintenance Costs

There are no significant or distinct non-wage operation or maintenance costs associated with obtaining and submitting a self-bond under 30 CFR 800.23(g).

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 §800.23 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 30 hours, the annual cost to the Federal government for a GS 12/5 accountant earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be \$1,682.

Federal Programs: As noted in item 12.a., OSM estimates that permittees annually submit 74 collateral bonds, of which 70 are filed with State regulatory authorities and the remaining 4 are filed with OSM for lands and operations for which OSM is the regulatory authority. Processing each self-bond requires an average of 4 hours, with a total burden of 16 hours (4 self-bonds x 4 hours per bond). At an average wage rate of \$56.06 per hour for a Federal accountant (including benefits), the annual wage cost to the Federal government for this activity is an estimated \$897 (16 hours x \$56.06 per hour). There are no significant or distinct non-wage costs.

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost:

\$ 1,682	Oversight
+ \$ 897	Federal programs
\$ 2,579 Total Federal cost	

15. The currently approved information collection package for 30 CFR 800.23 includes 2,010 burden hours. OSM is requesting 1,471 burden hours for this section. This 539-hour decrease is due to the fewer number of permit revisions (and therefore self-bonds) that are currently being received in the three years since the prior submittal. Therefore, OSM requests the following correction:

2,010	hours currently approved
- 539	hours due to an adjustment
1,471 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.

## **30 CFR 800.40 - Requirement to release performance bonds**

### Justification

1. Section 519 of the Act establishes numerous application and procedural requirements for release of performance bonds filed under §509 of SMCRA. The corresponding procedural requirements in 30 CFR 800.40 essentially track these provisions, adding (1) a requirement that the permittee submit a certification that all applicable reclamation activities have been completed in accordance with the approved program and reclamation plan, and (2) an opportunity for an informal conference on a proposed bond release. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules and regulations to carry out the purposes and provisions of the Act, authorizes collection of the additional information. Also, the informal conference provisions are consistent with §102(i) of the Act, which encourages public participation in regulatory program proceedings.
2. OSM and State regulatory authorities use the information collected for §800.40 to determine whether an applicant for bond release has met all applicable release criteria, and how much of the bond must be retained to ensure completion of the remaining reclamation requirements. Persons with an interest in the bond, property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, water companies, and the public at large use the required letters of notification and newspaper notices to decide whether to participate in the bond release process or appeal the final agency decision to ensure protection of their interests. Permittees likewise use the application, notification, and appeal processes to protect their interest in securing bond release.
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 OSM's experience as a regulatory authority, and figures from the State of Kentucky, OSM estimates that permittees request approximately 2,000 bond releases each year. This figure is more in the line with the number and overall downward trend found in the 2005 report, and is in contrast to the much higher figure used in the 2008 report. Of those applications, OSM estimates that 1,870 are filed with the 24 State regulatory authorities, while 130 are filed with OSM for lands and operations for which we have primary regulatory responsibility.

There is no significant burden difference to either permittees or regulatory authorities among the various phases of bond release: Phase I (backfilling and grading), Phase II (topsoiling and establishment of revegetation), and Phase III (final). Therefore, the burden estimates do not differentiate among the phases. The demonstration of revegetation success, which is required for Phase III bond release can be quite time-consuming. However, that burden is reflected in the information collection authority for 30 CFR 816.116 and 817.116, which establish the revegetation success demonstration requirements. The information collection authority for §800.40 reflects only the burden associated with the bond release process, which begins with the preparation of an application for bond release.

#### **Burden to Permittees**

OSM estimates, based on discussions with operators identified in item 8, that preparing, submitting, and revising a bond release application requires an average of 12 hours, although the actual time required will vary greatly depending on the complexity of the site. This estimate includes preparation of the application, obtaining a notarized certification of compliance with reclamation requirements, preparation of the public notice for advertisement in the local newspaper, and preparation and mailing of letters to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies. Hence, the total burden to permittees to comply with the information collection requirements of §800.40 is an estimated **24,000 hours** (2,000 applications x 12 hours per application).

#### **Burden to State Regulatory Authorities**

OSM's experience in situations in which it is the regulatory authority, and discussions with those identified in item 8, indicate that reviewing a bond release application, calculating the amount of the bond that may be released, and preparing and sending the required decision notification letters to the permittee and other interested parties requires an average of 20 hours per application, for a total burden of **37,400 hours** (1,870 applications received by State regulatory authorities x 20 hours per application) per year. This estimate does not include travel time and other routine elements of the bond release inspection required by 30 CFR 800.40(b). The burden for the non-technical aspects of

that inspection is included in the burden for 30 CFR 840.11, and approved separately by OMB. OSM's experience indicates that the actual bond release application review burden for a particular site varies between 16 and 48+ hours, depending on the complexity of the site and application. The State regulatory authorities contacted under item 8 provided an estimate within that range.

In addition, based on its own experience and the estimates provided by the State regulatory authority listed in item 8, OSM estimates that approximately 5% (94) of the 1,870 bond release applications processed by State regulatory authorities result in an informal conference, and that 1% (19) involve a public hearing. Under 30 CFR 800.40(f) and (g), the regulatory authority must provide public notice and prepare and make available a verbatim record and transcript of each public hearing. Similarly, under §800.40(h), the regulatory authority must prepare a record of each informal conference and provide all parties with written findings. OSM estimates that complying with those provisions requires an average of 4 hours per case, for a total burden of **452 hours** [(94 informal conferences + 19 public hearings) x 4 hours per conference or hearing].

Hence, the total burden to the 24 State regulatory authorities to comply with the information collection requirements of §800.40 is an estimated **37,852 hours** (37,400 hours for application review and decision notification + 452 hours related to conferences and hearings) per year. Because the level of mining varies greatly from State to State, the level of bond release activity exhibits a similar variation.

### **Combined Burden for All Respondents**

The combined burden for all respondents for 30 CFR 800.40 is an estimated **61,852 hours** (24,000 hours for permittees + 37,852 hours for State regulatory authorities).

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

We estimate the following wage costs (rounded) required to complete the collection for this section:

Industry Wage Cost

Position	Hour Burden per Response	Cost Per Hour (\$) (including benefits)	Total Wage Burden (\$)
Clerical	1	35	35
Engineering Technician	7	49	343
Mining Engineer	4	63	252
Total	12		630

Therefore, the estimated total annual wage cost for each permit applicant for §800.40 is \$630. The total wage cost to all industry respondents is \$630 x 2,000 permits = \$1,260,000.

In addition, it takes 37,852 hours for all State regulatory authorities to review and recalculate the bond estimates for each permit application, and to hold the informal conferences and hearings. At \$55.19 per hour, the estimated annual wage cost for State regulatory authorities to process all bond request and subsequent hearings is \$55.19 per hour x 37,852 hours = \$2,089,052.

Therefore, the total wage cost to all respondents is \$3,349,052 (\$1,260,000 + \$2,089,052).

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

Based on past experience and consultations, OSM estimates that the annual non-wage cost burden to **permittees** for compliance with 30 CFR 800.40 totals **\$1,210,000**, with the following components:

- \$90,000 for notification letters (2,000 bond release applications x 15 letters per application x \$3 per letter for mailing expenses and office supplies);
- \$520,000 for public notices in local newspapers (2,000 bond release applications x \$65 per application per week for publication x 4 weeks); and
- \$600,000 for mapping expenses, duplication costs, notary fees, delivery charges, and other costs associated with preparing and submitting a bond release application (2,000 applications x \$300 per application).

Based on past experience and consultations, OSM also estimates that the annual non-wage cost burden to the 24 State regulatory authorities for compliance with 30 CFR 800.40 totals **\$230,522**, with the following components:

- \$187,000 for travel to the minesite, duplication expenses, and miscellaneous costs associated with review and processing of a bond release application (1,870 applications submitted to State regulatory authorities x \$100 per application);
- \$33,660 for decision notification letters to the permittee, the municipality, persons with an interest in the bond, and objectors (1,870 bond release

- applications submitted to State regulatory authorities x 6 letters per application x \$3 per letter for mailing expenses and office supplies);
- \$2,470 for public notices in local newspapers for public hearings (19 public hearings conducted by State regulatory authorities x \$65 per hearing per week for publication x 2 weeks);
- \$5,700 for court reporter services for preparation of a verbatim record for public hearings (19 public hearings x \$300 per hearing); and
- \$1,692 for furnishing written findings for each informal conference to all parties to the conference (245 informal conferences x 6 letters per conference x \$3 per letter for mailing expenses and office supplies).

Therefore, OSM estimates that the annual non-wage cost burden to all respondents for compliance with 30 CFR 800.40 totals **\$1,440,522** (\$1,210,000 for permittees + \$230,522 for State regulatory authorities).

b. Operation and Maintenance Costs

The information collection requirements of 30 CFR 800.40 that apply to permittees do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

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 §800.40 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 30 hours, the annual cost to the Federal government for a GS 12/5 regulatory program specialist/engineer earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be **\$1,682**.

Federal Programs: OSM estimates that it annually receives approximately 130 applications for bond release for lands and operations for which OSM is the regulatory authority. Reviewing a bond release application, calculating the amount of the bond that may be released, preparing and sending the required decision notification letters to the permittee and other interested parties, and taking the steps necessary to actually release all or part of a bond require an average of 20 hours per application, for a total burden of 2,600 hours (130 applications received by OSM x 20 hours per application) per year. At an average wage rate of \$56.06 per hour for a regulatory program specialist/engineer (rounded and including benefits), the annual wage cost to the Federal government for this activity is an estimated **\$145,756** (2,600 hours x \$56.06 per hour). There are no significant or distinct non-wage costs. This estimate does not include travel time or other

routine aspects of the bond release inspection required by 30 CFR 800.40(b). The burden for non-technical aspects of this inspection is included in the burden for 30 CFR 842.11 since it would count as an inspection for purposes of that section.

In addition, OSM estimates that approximately 8 of the 130 bond release applications that it processes involve an informal conference, and that 2 involve a public hearing. Under 30 CFR 800.40(f) and (g), the regulatory authority must provide public notice and prepare and make available a verbatim record and transcript of each public hearing. Similarly, under §800.40(h), the regulatory authority must prepare a record of each informal conference and provide all parties with written findings. OSM estimates that complying with these provisions requires an average of 4 hours per case, for a total burden of 40 hours [(8 informal conferences + 2 public hearing) x 4 hours per conference or hearing]. At \$56.06 per hour, the cost for this requirement would be **\$2,242** (\$56.06 per hour x 40 hours).

Therefore, the total Federal program cost is **\$145,756** (\$122,200 + \$2,242).

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

The annual non-wage cost burden to the Federal government to comply with the information requirements of 30 CFR 800.40 totals **\$8,728**, with the following components:

- \$6,500 for travel to the minesite, duplication expenses, and miscellaneous costs associated with review and processing of a bond release application (130 applications submitted to OSM x \$50 per application);
- \$1,560 for decision notification letters to the permittee, the municipality, persons with an interest in the bond, and objectors (130 bond release applications submitted to OSM x 4 letters per application x \$3 per letter for mailing expenses and office supplies);
- \$260 for public notices in local newspapers for public hearings (2 public hearings conducted by OSM x \$65 per hearing per week for publication x 2 weeks);
- \$300 for court reporter services for preparation of a verbatim record for public hearings (1 public hearing x \$300 per hearing); and
- \$108 for furnishing written findings for each informal conference to all parties to the conference (6 informal conferences x 6 letters per conference x \$3 per letter for mailing expenses and office supplies).

Therefore, annual Federal program costs total:

Total Federal Cost:

\$ 1,682	Oversight
+ \$ 145,756	Federal programs
+ \$ 8,728	Non-wage costs
\$ 156,166 Total Federal cost	

15. The currently approved information collection package for 30 CFR 800.40 includes 159,176 burden hours. OSM is now requesting 61,852 burden hours for this section. The 97,324-hour decrease results from an estimated decrease in bond release applications.

Therefore, the burden for §800.40 will change as follows:

159,176	hours currently approved
- 97,324	hours due to an adjustment
61,852 hours requested	

The significant decrease in the estimated number of bond release applications submitted each year has also resulted in a decrease in the total non-wage costs by \$2,188,158, for a new total of \$1,440,522.

16. See list of items with identical responses.

17. See list of items with identical responses.

18. See list of items with identical responses.

## **30 CFR 800.50 - Forfeiture of bonds**

### Justification

1. Section 509(a) of the Act provides that the amount of bond required for surface coal mining and reclamation operations under SMCRA must be sufficient to assure completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture. To implement this provision, 30 CFR 800.50 establishes notification procedures and related requirements governing forfeiture of bonds and reclamation of sites for which bonds have been forfeited. Section 201(c)(2) of SMCRA, which provides that the Secretary must promulgate rules and regulations to carry out the purposes and provisions of the Act, authorizes collection of this information.
2. OSM and State regulatory authorities under SMCRA use the information required under §800.50 to collect the funds needed to complete the reclamation plan when the regulatory authority has to perform the work under conditions of bond forfeiture. Other persons, such as the surety or persons with an interest in collateral posted as bond, rely upon the notifications required by §800.50(a) as a warning system that allows them to take action to avoid forfeiture if desired.
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

Under §§800.50(a) and 800.21(f), the regulatory authority must provide written notification by certified mail to the permittee, the surety, and persons with an interest in collateral posted as bond whenever the regulatory authority decides to forfeit all or part of the bond. The notification must specify the amount of bond to be forfeited and the conditions under which forfeiture may be avoided.

Data from OSM's annual report for the 2010 evaluation year indicate that the 24 State regulatory authorities forfeited bond for 36 sites during that year. However, we estimate that approximately 25% of all forfeiture notices never progress to actual forfeiture because the surety or another party enters into a compliance agreement to reclaim the sites. Therefore, OSM estimates that approximately 48 forfeiture notices [(4/3) x 36 bond forfeitures] were submitted during 2010 and that they will send a similar number in succeeding years.

Based on a combination of information supplied under item 8 and our recent experience as a regulatory authority, OSM estimates that preparation and mailing of those notices to the permittee requires an average of 8 hours per notice. Sending a copy of the notice to the surety or person with an interest in collateral posted as a bond requires an additional 2 hour per notice for the 95% of bonds that are either surety or collateral bonds. Therefore, OSM estimates that the total burden to the 24 State regulatory authorities to comply with the notice and notification requirements of §800.50 is **475 hours** [(48 forfeiture notices x 8 hours per notice) + (0.95 x 48 forfeiture notices x 2 hours per notice for notification of persons with an interest in the bond)].

b. Estimated Annual Wage Cost to Respondents

We estimate that the wage cost to State accountants who prepare and send the bond forfeiture notices to be \$40.71 per hour (including benefits). Therefore, the estimated annual wage cost for State regulatory authorities to comply with §800.50 is \$40.71 per hour x 475 hours = \$19,337.

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

OSM estimates that the annual non-wage cost burden to the 24 State regulatory authorities for compliance with the notification requirements of §800.50 averages approximately \$3 for each bond forfeiture notification, principally for postage (certified mail) and office supplies. Since these regulatory authorities annually send 48 notices to permittees and 38 (95% of 40) notices to persons with an interest in the bond (see item

12.a.), the total non-wage cost burden is an estimated **\$258** [(48 notices to permittees + 38 notifications to other persons) x \$3 per notice].

b. Operation and Maintenance Costs

Compliance with the information collection requirements of 30 CFR 800.50 does not involve any operation and maintenance costs apart from those associated with customary business practices.

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 §800.50 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 10 hours, the annual cost to the Federal government for a GS 12/5 regulatory program specialist/engineer earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be **\$561**.

Federal Programs: OSM did not forfeit a bond for any minesite during the 2010 evaluation year (see Appendix B). However, based on OSM's past experience with prior forfeitures for lands for which it is the regulatory authority, preparation and mailing of a bond forfeiture notice requires an average of 8 hours. Sending a copy to the surety or person with an interest in the collateral requires another 0.5 hour per notice.

At an average wage rate of \$56.06 per hour for a regulatory program specialist/ engineer (including benefits), the annual wage cost to the Federal government for this activity is an estimated **\$477** (\$56.06 per hour x 8.5 hours) (rounded). There are no significant or distinct non-wage costs.

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost:

\$ 561	Oversight
+ \$ 477	Federal programs
\$1,038 Total Federal cost	

15. The currently approved information collection package for 30 CFR 800.50 includes 396 burden hours. OSM is now requesting 475 burden hours for this section. The 79-hour increase results from a small increase in the estimated annual number of bond forfeiture notices issued (from 30 to 36).

The burden for §800.50 will change as follows:

396 hours currently approved  
+ 79 hours due to a net increase in use  
475 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.

## **30 CFR 800.60 - Terms and conditions for liability insurance**

### Justification

1. Section 507(f) of SMCRA mandates collection of the information required by 30 CFR 800.60, which implements this section of the Act. Section 507(f) 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. Both this section and 30 CFR 800.60 provide that the policy must be maintained in full force and effect during the terms of the permit and any renewal, including the length of all reclamation operations. The regulations further specify that the policy must include a rider requiring that the insurer notify the regulatory authority whenever substantive changes are made in the policy, including termination or failure to renew.
2. OSM and State regulatory authorities use the certificate required by this section to verify that persons conducting or proposing to conduct surface coal mining and reclamation operations have a valid insurance policy in effect to provide compensation for any personal injury or property damage that may result from surface coal mining operations, to the extent that the injured party is entitled to compensation under State law.
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 upon OSM's experience as a regulatory authority and data from the State-specific annual evaluation reports for the 2010 evaluation year, OSM estimates that permittees annually file 1,662 insurance certificates or evidence of self-insurance with OSM and the 24 State regulatory authorities under SMCRA. This number includes the following components:

- 287 certificates filed with new permit applications.
- 721 certificates filed with permit renewal applications.
- 654 certificates filed with an application for the transfer, assignment, or sale of permit rights.

Maintaining personal injury and property damage liability insurance is a customary and usual business practice, and a prudent operator would carry liability insurance in amounts greater than those required by the statute. Therefore, OSM is not including the time required to obtain a policy as part of the burden for this section. Based on prior consultations, OSM estimates that copying and submitting a certificate of coverage or evidence of self-insurance to the regulatory authority requires about 2 hours for the permittee. Therefore, the total burden to permittees to comply with the information requirements of 30 CFR 800.60 is **3,324 hours** (1,662 certificates x 2 hour per certificate) per year.

b. Estimated Annual Wage Cost to Respondents

We estimate that the wage cost to a coal company's engineering technician to copy and submit the insurance policy certificate to the regulatory authority is \$49 per hour (including benefits). Therefore, the estimated annual wage cost for all permit applicants to comply with §800.60 is \$49 per hour x 1,662 certificates x 2 hours each = \$162,876.

(See item 12, page 9 for the discussion of wage costs and benefits multipliers.)

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

Insurance premiums vary considerably. Some companies base their premiums on coal production while others rely upon payroll to establish the rate base. According to information provided several years ago, the annual premium cost of a liability insurance policy based on coal production is \$3,000 for operators producing between 0 and 50,000 tons of coal per year, \$5,000 for operators producing 100,000 tons of coal per year, and \$25,000 for operators producing 750,000 tons of coal per year.

However, as noted in item 12.a., purchasing and maintaining a personal injury and property damage liability insurance policy is a customary and usual business practice that should not be considered as an expense imposed solely by statute or regulation. There are no other capital or start-up costs.

b. Operation and Maintenance Costs

The information collection requirements of 30 CFR 800.60 do not involve any operation or maintenance costs apart from expenditures (such as annual policy renewals) associated with customary business practices.

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 §800.60 in the absence of any indication of programmatic problems. Assuming that we will conduct an oversight review of this topic in one State program per year and that each review requires an average of 6 hours, the annual cost to the Federal government for a GS 12/5 regulatory program specialist/engineer earning \$56.06 per hour (including benefits) to conduct this oversight activity is estimated to be **\$336**.

Federal Programs: As noted in item 12.a., OSM estimates that permittees annually submit 1,662 insurance certificates. Based on data collected for sites for which OSM is the regulatory authority during 2010, only 22 of those are filed with OSM. OSM is only required to ensure that the company has an insurance certificate and file it with the permit. This does not constitute a burden since it is a customary business activity.

(See item 14, page 9 for the discussion of wage costs and benefits multipliers.)

Total Federal Cost:

\$ 336	Oversight
+ \$ 0	Federal programs
\$ 336 Total Federal cost	

15. The currently approved information collection package for 30 CFR 800.60 includes 3,508 burden hours. OSM is now requesting 3,324 burden hours for this section. The 184-hour decrease is due to a small reduction in the number of new permits, permit renewals, and applications for the transfer, assignment, or sale of permit rights that are currently being received. Therefore, the estimated burden hours will change as follows:

3,508	hours currently approved
- 184	hours due to an adjustment

3,324 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.

## Appendix A: Relevant Statistics for Primacy States in Evaluation Year 2010

State	New permits	Permit renewals	Add'l Acres Revisn	Incidental boundary revisions	Other Permit revisions	Transfers, sales, & assignments of permit rights	Inspect-able units	Active surface mines	Bond Forfeitures
Alabama	14	7	0	0	71	3	222	74	3
Alaska	1	3	0	1	3	0	12	9	0
Arkansas	0	1	0	0	0	1	7	3	0
Colorado	0	2	0	0	2	0	39	12	0
Illinois	1	26	0	37	7	1	82	53	0
Indiana	3	16	9	47	311	0	98	73	0
Iowa	0	0	0	0	0	0	4	0	0
Kansas	0	0	0	0	1	0	10	8	1
Kentucky	96	157	175	325	40	208	1919	855	16
Louisiana	0	0	0	1	0	0	3	2	0
Maryland	4	6	11	6	58	1	64	49	0
Mississippi	0	0	0	0	0	0	1	1	0
Missouri	0	0	0	0	5	0	16	15	0
Montana	0	1	2	0	50	0	15	9	0
New Mexico	0	0	0	0	65	0	9	5	0
North Dakota	1	4	1	0	21	0	31	20	0
Ohio	7	9	12	14	129	37	266	214	0
Oklahoma	3	5	0	2	13	1	55	24	0
Pennsylvania	72	264	0	0	0	28	1684	884	4
Texas	0	1	0	0	123	0	35	25	0
Utah	1	8	0	1	38	0	35	2	0
Virginia	14	35	13	46	802	8	395	142	0
West Virginia	67	157	14	235	321	348	2139	388	12
Wyoming	1	10	6	6	59	7	36	31	0
<b>Totals</b>	<b>285</b>	<b>712</b>	<b>244</b>	<b>721</b>	<b>2,119</b>	<b>643</b>	<b>7,177</b>	<b>2,898</b>	<b>36</b>

Sources: Applications from OSM's 2010 Annual Report, State-specific annual oversight reports, and internal data sources.

**Appendix B: Relevant Statistics for Federal Programs, Indian Lands, and States  
With Substituted Federal Enforcement in Evaluation Year 2010**

State/Tribe	New permits	Permit renewals	Add'l Acres Revisn	Incidental boundary revisions	Other permit revisions	Transfers, sales, & assignments of permit rights	Inspectable units	Active surface mines	Bond forfeitures
Crow Reservation	0	0	0	0	6	0	2	2	0
Georgia	0	0	0	0	0	0	6	0	0
Hopi Reservation	0	0	0	0	0	0	1	1	0
Navajo Reservation	0	2	0	0	42	0	16	3	0
Tennessee	2	7	0	22	104	11	300	53	0
Ute Reservation	0	0	0	0	0	0	1	0	0
Washington	0	0	0	0	25	0	2	2	0
<b>Totals</b>	<b>2</b>	<b>9</b>	<b>0</b>	<b>22</b>	<b>177</b>	<b>11</b>	<b>328</b>	<b>61</b>	<b>0</b>

Sources: Applications from OSM's 2010 Annual Report and other OSM sources