

SUPPORTING STATEMENT A

30 CFR Part 840 – State Regulatory Authority: Inspection and Enforcement

OMB Control Number 1029-0051

Terms of Clearance: None

Introduction

This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to request approval to continue collecting information under 30 CFR Part 840 of the OSMRE permanent regulatory program. The Office of Management and Budget (OMB) previously approved the information collection for this Part and assigned control number 1029-0051.

The current approved information collection burden for Part 840 is 330,900 hours. We are requesting OMB approval for a new information collection burden for 441,795 hours, an increase of 110,895 hours. Although the trend in permitted sites is down from the last three years, reducing total responses 61,585 to 54,515, the increase in burden hours is attributed to more comprehensive accounting of time for inspections including travel time and report writing. Consequently, the required hours are increased to conduct complete (10 hours) and partial inspections per site by State Regulatory Authorities (SRAs).

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.*

Section 517(c) of the Surface Mining Control and Reclamation Act (the Act), 30 U.S.C 1201, requires the State Regulatory Authority (SRA) to conduct an average of one partial

inspection per month and an average of one complete inspection per calendar quarter on each surface coal mining and reclamation operation under its jurisdiction. 30 CFR 840.11(b) requires the SRA to conduct at least one complete inspection per calendar quarter for each inactive surface coal mining and reclamation operation under its jurisdiction. Also, under 30 CFR 840.11(c) the SRA is responsible for conducting as many inspections of coal exploration sites as are necessary to ensure compliance with the approved State program. To ensure that these inspections are conducted in accordance with the approved State program, 30 CFR 840.11(e)(3) requires that the SRA promptly file a copy of their inspection reports.

Section 517(c) of the Act (30 U.S.C 1201), requires the SRA to conduct an average of one partial inspection per month and an average of one complete inspection per calendar quarter on each surface coal mining and reclamation operation under its jurisdiction. 30 CFR 840.11 authorizes a separate inspection frequency for abandoned surface coal mining and reclamation operations. In those instances where an alternative inspection frequency is warranted, 30 CFR 840.11(h) requires the SRA to conduct a complete inspection of the abandoned site, and prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. In addition, the SRA must publish a newspaper notice providing the public with a 30-day period in which to comment. The announcement includes information on the permittee, location of the abandoned site, bond status, and justification for the reduced inspection frequency.

This section requires copies of all information obtained by the SRAs relating to inspection and enforcement be made available to the public and the Director, OSMRE, upon request. The purpose of this section is to encourage citizen participation in the enforcement of the Act (30 U.S.C. 1201), by making inspection and enforcement records readily available. Information relating to the availability of records involving permit applications are covered under the information collection requirements of 30 CFR 772 and 773.

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.*

Section 11(a-b):

Information is used by the States to enforce their laws and rules regulating coal mining. In addition, copies of the States' inspection reports are maintained for public inspection and for OSMRE review when needed. See Section 517(a) of the Act.

Section 11(h):

This information is used by the SRA to justify to the public and OSMRE, its deviation from the required inspection frequency of each site set forth in Section 517(c) of the Act

Section 14(a-c):

This information is used by OSMRE and the public to determine whether the SRA is properly enforcing the inspection and enforcement provisions of their approved State program. The information is needed to ensure that required safety and environmental concerns are being adhered to by the SRAs.

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.*

This information is unique to each surface coal mining operation. Respondents are SRAs who conduct inspections and prepare reports. State and Federal regulatory authorities are using Global Positioning Systems on a limited basis to calculate permit areas and impoundment dimensions to facilitate the inspection process. OSMRE provides training and some funding for the purchase of equipment for use by SRAs. Also, some inspectors prepare their inspection reports by laptop computer in the field and download once they return to their offices. This method of preparing inspection reports varies by State and individual inspector, however, we estimate that 50% of State inspectors use electronic means to prepare and maintain the reports.

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.*

Respondents are SRAs who conduct complete and partial inspections at mine sites to ensure compliance with the Act, the State regulatory program, and applicable environmental laws. This information is unique for each mine site under the jurisdiction of the SRA. There is no duplication of this effort, nor do other Federal agencies collect this information.

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

Information is solicited only from State and Federal agencies that regulate surface coal mining and reclamation operations.

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.*

Section 517 of the Act requires an inspection report for each inspection performed. Without an inspection and accompanying report, mine operators would have no incentive to comply with safety or environmental laws.

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.*

Guidelines in 5 CFR 1320.5(d)(2) are not exceeded.

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.

Contacts were made with regulatory authorities regarding inspection information collection activities associated with 30 CFR Part 840 as follows:

Inspection and Enforcement Information Specialist
Office of Surface Mining
2675 Regency Road
Lexington, KY 40503

Technical Support Division
Office of Surface Mining Reclamation and Enforcement
710 Locust Street
2nd Floor
Knoxville, TN 37902

West Virginia Department of Environmental Protection
Division of Mining and Reclamation
601 57th Street SE
Charleston, WV 25304

The respondents did not identify any concerns regarding the availability of data, frequency of collection, clarity of instructions and record keeping of the required information.

On July 19, 2021, OSMRE published in the Federal Register (86 FR 38124) 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 no comments.

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

OSMRE does not provide payments or gifts to respondents. OSMRE does provide 50% of regulatory costs to States in the form of grants to respondents which are authorized by Congress.

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

Inspection reports are available to the public as required in Section 517(f) of the Act and 30 CFR 840.14.

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.*

No sensitive questions are asked.

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.*

Reporting and Reviewing Burden

a. Estimate of Respondent Reporting Burden

(1) Complete Inspections

- o Average hours to perform a complete inspection is estimated at 10 hours based upon estimates from actual mine inspection reports and verified by respondents (identified in item 8 above). The previous hour estimate was 6 hours, however, this estimate did not full represent large mines found in the western states which often require extensive travel time, nor did previous estimate take into account amount of time for report writing of inspection results.
- o The number of complete inspections conducted is dependent on the number of active permits which have declined in the last three years. OSMRE estimates that 21,000 complete inspection will be conducted

annually over the next three years based upon actual inspection frequency data from OSMRE's inspection reporting system and recognizing the downward trend in the number of sites. This is a decrease from 25,000 inspections previously estimated. Therefore, **210,000 hours** (21,000 inspections x 10 hours per inspection) are estimated for burden hours from complete inspections.

(2) Partial Inspections

- o Based on actual inspection reports OSMRE estimates it requires 7 hours to complete partial inspections, an increase from 5 hours previously which did not include the travel time and report writing of inspection results. This estimate is supported by OSMRE's database that maintains information on inspections throughout the country.
- o OSMRE estimates that State's with regulatory authority with conduct 33,000 partial inspections annually, a decrease from 36,000 previously estimated. The decrease is related to fewer permitted sites nationwide. Therefore, a total of **231,000 hours** (33,000 inspections x 7 hours per inspection) are estimated for partial inspections.

The total burden to respondents to conduct all inspections and prepare the accompanying reports per year for all surface coal mining sites is 210,000 hours for complete inspections + 231,000 hours for partial inspections = **441,00 hours**.

(3) Alternative Inspections

OSMRE estimates that there will continue to be 5 abandoned sites where the SRA prepares written justifications and submits newspaper announcements to reduce inspection frequencies annually. An estimated 6 hours is required for preparation of written findings and newspaper announcement required by this section. Therefore, annual total burden of **30 hours** (6 hours per respondent x 5 sites).

(4) Requests for Copies

Regulatory authorities are required to provide inspection and enforcement data to OSMRE via the Inspection and Enforcement (INE) database. Most states do not post their inspection and violation data on public websites, and a requester would need to contact the SRA for copies of the information. However, some states (including West Virginia - which conducts more inspections than any other state) upload the data and make it available to the public via websites. There is minimal additional time to the SRA to upload this data to their public website. Despite making the reports available online, there are infrequent times when a citizen without

easy access to a computer, or without sufficient knowledge to navigate the website, contacts the SRA for this information --- in which case the SRA would make paper copies and provide them to the requester. Based on discussions with the SRAs listed in item 8 above and OSMRE field office staff, we assume that the public requests copies of SRA data at a rate of 10% of the total nationwide sites. The burden estimate for this section does not include the time for record maintenance; it only includes the normal clerical hours associated with preparation and reproduction of the records. Contacts in item 8 estimate that each request for records takes an average of 1.5 hours for the SRA to locate, reproduce, compile, and then provide the records to the requester. In many instances a State information clerk can print, copy, or scan the requested inspector reports and permit files. Therefore, total burden hours are **765 hours** (510 x 1.5 hours/response).

Section	Responses	Hour per response	Total hours	Current hours	Difference
840.11 (b) (Complete Inspections)	21,000	10	210,000	150,000	60,000
840.11 (a) (Partial Inspections)	33,000	7	231,000	180,000	51,000
840.11 (h)(2) (Alternate Inspections)	5	6	30	30	0
840.14 (Requests for copies)	510	1.5	765	870	-105
Total	54,515		441,795	330,900	110,895

b. Estimate of Respondent Annual Wage Cost

(1) Inspections

OSMRE assumes that State workers tasked with inspections are paid an equivalent wage as the occupation category for a physical scientist (\$37.79/hour) derived from http://www.bls.gov/oes/current/naics4_999200.htm. A benefit

factor of 1.6 per the Bureau of Labor Statistics (BLS) news release, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION— June 2021, USDL-21-1647, dated September 16, 2021, found at: <http://www.bls.gov/news.release/pdf/ecec.pdf>). The hourly wage for state inspection cost is therefore \$60.46 (37.79 x 1.6).

(2) Requests for records

Similarly, OSMRE assumes State information clerks will service requests of inspections and results to make records available to public. The average hourly wage for information clerks is \$27.34 (\$17.09/hour x 1.6).

Total wage costs amount to **\$26,685,589** as summarized below:

Summary of Annual Wage Cost

Section	Total hours	Wage rate per hour(\$)	Wage Cost (\$)
840.11 (b) (Complete Inspections)	210,000	60.46	12,696,600
840.11 (a) (Partial Inspections)	231,000	60.46	13,966,260
840.11 (h)(2) (Alternate Inspections)	30	60.46	1,814
840.14 (Requests for copies)	765	27.34	20,915
All	441,795		26,685,589

13. *Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)*

* *The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*

* *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

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

a. Annualized Capital and Start-up Costs

There are no significant or distinct non-wage operation or maintenance costs associated with compliance with the information collection requirements other than 30 CFR 840.11(h)(2) for public publication information required. OSMRE estimates that the SRAs would incur a total annual cost of \$625 (5 notices x \$125 for publication of each notice for local news media).

b. Operation and Maintenance Costs

There are no significant or distinct operation or maintenance costs associated with other sections (840.11 and 840.14) beyond that required under normal and customary business activities.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff),*

and any other expense that would not have been incurred without this collection of information.

We contacted the OSMRE Knoxville Field Office in July 2021 for the Federal burden estimates below:

a. Oversight Inspections

OSMRE determined that a GS 12, step 5 reclamation specialist will conduct the oversight reviews. According to OPM's Federal pay scale the direct hourly wage rate is \$42.08 per hour (see https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf). A benefit factor of 1.6 is determined by BLS news release, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION— June 2021, USDL-21-1647, dated September 16, 2021, found at: <http://www.bls.gov/news.release/pdf/ecec.pdf>). Hourly cost is therefore, \$67.33 (\$42.08 x 1.6).

OSMRE estimates that 700 oversight inspections will be conducted annually over the next three-year period. The amount of time to administer an oversight inspection includes time for permit review, travel time, on-site inspection, and post-inspection report writing. Using inspection records OSMRE estimates it requires on average 17 hours per inspection. Therefore, government oversight wage cost \$801,227 (11,900 hours x \$67.33/hour).

b. Federal Program States and Indian Lands: OSMRE is the regulatory authority in Tennessee, Washington, and on Indian lands.

Complete Federal inspections take approximately 10 hours and 7 hours for partial inspections conducted by reclamation specialist. Based on annual report data, OSMRE expects to conduct 200 complete inspections annually for the foreseeable future and 450 partial inspections on Federal Program States and Tribal lands. Wage cost of complete inspection amounts to \$134,660 and \$212,090 for partial inspections.

Cost to Federal Government Summary

	Number of Inspections	Hours per inspection	Total hours	Total cost @\$67.33/hour
Oversight	700	17	11,900	801,227
Federal Programs				
Complete inspections	200	10	2,000	134,660
Partial inspections	450	7	3,150	212,090
All			17,050	1,147,977

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

This request increases burden hours by 110,895 hours from the currently approved collection burden. The increase in the burden hours is attributed to a more comprehensive accounting of time spent for conducting inspections, including travel time and report writing not previously considered.

This collection request will change the burden for this section as follows:

330,900 Hours currently approved for complete and partial inspections
+ 110,895 Hours due to adjustments in responses and respondent burden
441,795 Hours requested

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

OSMRE publishes this data annually in accordance with sections 517(f) and 706 of the Act.

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.*

This collection is not associated with a specific form where OSMRE could display an expiration date. The approved OMB control number is codified in 30 CFR 840.11.

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

There are no exceptions to the certification statement.