

Supporting Statement for Paperwork Reduction Act Submission for 30 CFR Part 829

OMB Control Number 1029-XXX2

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.
2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]
3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements.].
4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.
5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.
7. Explain any special circumstances that would cause an information collection to be conducted in a manner:
 - * requiring respondents to report information to the agency more often than quarterly;
 - * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
 - * requiring respondents to submit more than an original and two copies of any document;
 - * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
 - * in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
 - * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
 - * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
 - * requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.
8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.
10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.
11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.
12. Provide estimates of the hour burden of the collection of information. The statement should:
 - * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
 - * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
 - * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.
13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).
 - * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-

up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

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

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

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.
15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.
16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.
17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.
18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the OMB Form 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent that it applies to the

methods proposed:

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.
2. Describe the procedures for the collection of information including:
 - * Statistical methodology for stratification and sample selection,
 - * Estimation procedure,
 - * Degree of accuracy needed for the purpose described in the justification,
 - * Unusual problems requiring specialized sampling procedures, and
 - * Any use of periodic (less frequent than annual) data collection cycles to reduce burden.
3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.
4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.
5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

Supporting Statement for Collections of Information and Recordkeeping Requirements under 30 CFR Part 829

Introduction

The Office of Surface Mining Reclamation and Enforcement (OSM) is submitting this information collection clearance package to request authority to collect information and require retention of records under a new part, 30 CFR Part 829, Special Permanent Program Performance Standards—Abandoned Coal Refuse Remining Operations.

On October 24, 1992, Congress enacted the Energy Policy Act (EPAAct), Pub. L. 102-486. Section 2503(e) of EPAAct, codified at 30 U.S.C. 1251a, focuses directly on abandoned coal refuse sites. Its objective is to facilitate the reclamation of abandoned coal refuse sites in an environmentally sound manner. Specifically it directs the Secretary of the Interior to develop regulations establishing environmental protection performance and reclamation standards and separate permit systems applicable to eligible operations for on-site reprocessing as well as eligible operations for the removal of abandoned coal refuse. The standards and permit systems need to distinguish between on-site reprocessing of coal refuse, complete removal of the abandoned coal refuse for direct use or for reprocessing at another location, and other types of surface coal mining operations. The Secretary was given the authority to devise a different standard than those set forth in sections 515 and 516 of SMCRA and devise a separate permit system if, based on a standard-by-standard analysis, the Secretary determined that a different standard may facilitate the on-site preprocessing or removal of the coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

Therefore, the Abandoned Coal Refuse Rulemaking Team developed a proposed rule that creates two new parts to the CFR in order to better organize the provisions in a clear and user-friendly fashion, and used plain language concepts where appropriate. The permitting requirements are in a new part 786 and the performance standards are in a new part 829.

Proposed regulations at 30 CFR 829 set forth the minimum environmental protection performance standards to which coal refuse remining operators must adhere. These regulations implement primarily § 515 (environmental protection performance standards) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), and § 517 (inspections and monitoring), which establishes the minimum performance standards for environmental protection and requires periodic submission of the monitored or inspection surveys or reports on the environmentally sensitive subjects that are raised during the surface coal operation and reclamation process, including surface- and ground-water quality, impoundment dam and sediment pond safety, air blast and ground vibration, excess spoil pile safety, coal processing waste pile safety.

The responses to some items in the instructions for the supporting statement are

identical for each section; these responses appear on pages 8 – 9 of this document. Except as otherwise noted in the supporting statements for individual sections, the respondents and potential respondents consist of 22 coal refuse remaining operators and the State regulatory authorities that must review the information provided by the operators.

The following tables summarize the information collection requirements.

SUMMARY OF ANNUAL BURDEN TO RESPONDENTS FOR 30 CFR 829

| Section | Number of Operators | Hours per Operator | Number of States | Hours per State | Total Hours Requested |
|---------|---------------------|--------------------|------------------|-----------------|-----------------------|
| .3 | 22 | | 22 | | 2,200 |
| (i) | 22 | 16 | 0 | 0 | 352 |
| (iii) | 0 | 0 | 22 | 20 | 440 |
| (vi) | 4 | 120 | 0 | 0 | 480 |
| (vii) | 4 | 4 | 0 | 0 | 16 |
| (ix) | 4 | 50 | 0 | 0 | 200 |
| (x) | 4 | 12 | 0 | 0 | 48 |
| (xii) | 22 | 12 | 0 | 0 | 264 |
| (xiv) | 4 | 16 | 0 | 0 | 64 |
| (xvii) | 22 | 15 | 0 | 0 | 330 |
| .41 | 22 | 80 | 0 | 0 | 1,760 |
| .49 | 22 | 16 | 0 | 0 | 352 |
| .81 | 4 | 15 | 0 | 0 | 60 |
| TOTAL | | | | | 4,372 |

SUMMARY OF ANNUAL NON-WAGE COST TO RESPONDENTS FOR 30 CFR 829

| Section | Number of Operators | Cost per Operator | Number of States | Cost per State | Total Hours Requested |
|---------|---------------------|-------------------|------------------|----------------|-----------------------|
| .3 | 22 | 150 | 0 | 0 | 3,300 |
| .41 | 0 | 0 | 0 | 0 | 0 |
| .49 | 22 | 50 | 0 | 0 | 1,100 |
| .81 | 0 | 0 | 0 | 0 | 0 |
| TOTALS | 22 | 200 | 0 | 0 | 4,400 |

List of Identical Responses to Statements

A. Justification

3. The collection of information required under 30 CFR part 829 is unique to each applicant and mining area. Respondents are individual mining companies who maintain or submit reports, schedules, notification letters, etc. to the State regulatory authorities, land owners, or to newspapers as needed. Information collections do not involve use of any standard form, and the required information does not consist of numerical data or responses to multiple-choice questions. Generally, certification and monitoring reports are prepared and submitted electronically, while notices to landowners and newspapers are in paper form. OSM is currently assisting primacy states and the coal industry in developing and implementing various aspects of electronic permitting and state inspections.

Progress has been made in several states to increase the use of electronic and information technology to improve efficiency and reduce the time and cost burden to permittees and State regulatory authorities, with approximately 33 % of respondents submitting electronically.

4. The information requested under 30 CFR part 829 is unique to each person and site. Circumstances vary with each proposed coal refuse remaining site in which a permit application has been received. Thus, there is no available information that can be used in lieu of that supplied on each application. Information is usually collected quarterly or monthly, depending on state regulations. OSM is not aware of any other Federal agency that collects this information. OSM is the only Federal agency charged with implementation of SMCRA with respect to performance standards for surface and underground mining activities. Duplication of such information is minimal to nonexistent.
5. There are no special provisions for small businesses or other small entities. Special provisions are not appropriate because the requested information is the minimum needed to document the permit to conduct coal mining and reclamation operations. Adequate documentation of this permit is essential to ensure protection of public health and safety, water quantity and quality, wildlife habitat, while encouraging each operation to maximize the production or recovery of coal reserves and to minimize the environmental disturbances around the coal mining site. When applicable, small businesses may qualify for small operator assistance where the Federal government may provide financial assistance to the operator under 30 CFR 795.
6. Failure to collect the information requested under 30 CFR part 829, or collection at less frequent intervals, would impair the ability of OSM and State regulatory authorities to ensure that coal refuse remaining operations are conducted safely and in an environmentally protective manner consistent with the purposes and

requirements of the Act. Furthermore, the Act specifically requires submission of some of the requested information at the indicated frequency.

7. No collection of information under 30 CFR part 829 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 August 2006, OSM anticipates publishing the Abandoned Coal Refuse Remining proposed rule which will seek comments on the information collection activities for new 30 CFR parts 786 and 829. Much of the burden estimates for this collection request was derived from parts 816 and 817 which was last approved in March 2004.
9. Not applicable. OSM provides no payments or gifts to respondents.
10. No confidential information is solicited. However, if the information provided in the application needs to be dealt with confidentiality, the applicant has also the right to request confidentiality for such information as analysis of the chemical and physical properties of the coal to be mined, and the nature and location of archeological resources on public land and Indian land. Sections 507(b)(17), 508(a)(12), and 508(b) of SMCRA require that certain types of permit application information be kept confidential. The Archeological Resources Protection Act of 1979, 16 U.S.C. 470, requires that information on the nature and location of archeological resources be kept confidential.
11. Not applicable. There are no questions of a sensitive nature.
16. Not applicable. OSM has no plans to publish the information collected.
17. Not applicable. OSM is not seeking a waiver from the requirement to display the expiration date of the OMB approval of the information collection.
18. Not applicable. There are no exceptions to the certification statement in Item 19 of OMB Form 83-I.

B. Collection of Information Employing Statistical Methods

Statistical methods are not appropriate for collection of the information required under 30 CFR part 829 since this information is unique to each request and is counted individually. OSM regulations require submission of this information each time a person requests a permit, permit revision, permit renewal or transfer.

Supporting Statement for 30 CFR 829.3

A. Justification

1. Section 829.3 requires the coal refuse remaining operator to comply with the following permanent program performance standards identified in 30 CFR 816 through cross-referencing.

(a) 816.43 Diversions - The primary statutory authority for these regulations is section 201(c)(2) of SMCRA, which provides that the Secretary shall promulgate such regulations as are necessary to carry out the purposes and provisions of the Act. Under this section, a qualified registered professional engineer must certify that the design and construction of all stream channel diversions of perennial and intermittent streams meet the performance standards and any design criteria established by the regulatory authority.

(b) 816.57 Hydrologic Balance: Stream Buffer Zones - The primary statutory authority for these regulations are §§ 515(b)(10) and 515(b)(24) of SMCRA, which provides that mines must minimize disturbances and adverse impacts on fish, wildlife, and related environmental values. Section 816.57 prohibits mining activities from disturbing land within 100 feet of an intermittent or perennial stream unless the regulatory authority specifically authorizes those activities closer to or through the stream. The regulations provide that the regulatory authority may authorize such activities only after making a finding that the activities will not adversely affect water quantity and quality or other environmental resources of the stream, among other things.

(c) 816.62 Use of Explosives: Pre-Blasting Survey - Section 515(b)(15)(E) of the Act and its regulations at 30 CFR 816.62(b) require surface mine operators to perform pre-blast surveys when a request is made by a resident or owner of a structure within one-half mile of any portion of the permitted area; and submit the survey to the regulatory authority, and a copy, to the resident or owner of the properties. In addition, 30 CFR 816.62(a) requires that at least 30 days before initiation of blasting, the operator must notify in writing, all residents or owners of dwellings or other structures located within ½ mile of the permit area how to request a pre-blasting survey.

(d) 816.64 Use of Explosives: Blasting Schedule - Section 515(b)(15)(A) of the Act requires coal mine operators to provide adequate advance written notice to local governments and residents who might be affected by the use of explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality, and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed permit area where blasting will occur and by providing daily notice to resident/occupiers in such areas prior to any blasting. More specifically, 30 CFR 816.64(b) requires that the

notification of the blasting schedule must last at least 10 days, but not more than 30 days, before beginning a blasting program. 30 CFR 816.64(b)(3) requires that the schedule be republished and redistributed at least every 12 months and revised and republished at least 10 days, but not more than 30 days before blasting whenever the area covered by the schedule changes or actual time periods for blasting significantly differ from the prior announcement. 30 CFR 816.64(a)(2) also requires that all blasting must be conducted between sunrise and sunset, unless nighttime blasting is approved by the regulatory authority.

(e) 816.67 Use of Explosives: Control of adverse effects - Section 515(b)(15)(C) of the Act requires that blasting be conducted in a manner to prevent injury to persons and damage to public or private property outside the permit area. This section also requires limiting the type of explosives and detonating equipment, and the size, timing, and frequency of blasts based on the physical condition of the site. Decibel limits of air blasts and ground vibration should not exceed the maximum levels established in the regulations in order to prevent injury or damage to personnel and structures in the vicinity of the blasting area.

(f) 816.68 Use of Explosives: Records of Blasting Operations - Section 515(b)(15)(B) of the Act and its regulations, 30 CFR 816.68 require surface mine operators using explosives to maintain records for a period of at least three years and documentation at varying levels. Upon request, copies of the records must be available to the regulatory authority and to the public for inspection. Section 816.67 provides three methods for measuring ground vibration, each requiring documentation at varying degrees.

(g) 816.87 Coal Mine Waste: Burning and Burned Waste Utilization - Section 515(b)(14) requires that all materials, which constitute a fire hazard or any material that is acid forming or toxic forming be properly treated or buried to prevent surface or ground water contamination. Section 816.87 of the regulations require that if a potential hazard (like fire) develops, the regulatory authority be notified promptly and that all procedures to safeguard the public be formulated.

(h) 816.131 Cessation of Operations: Temporary - The statutory authority for this section is broadly provided in sections 509, 510, and 515 of the Act. This section requires the surface mine operator who ceases operations on a temporary basis to notify the regulatory authority of his intention to cease or abandoned mining and reclamation operations. This section also spells out what should be included in the notice. The temporary cessation notice provides the regulatory authority with the information needed to ascertain that the operator has not abandoned the site without completing reclamation.

(i) 816.150 Roads: general - Section 516(b)(10) of SMCRA provides that, with respect to the construction of new roads or the improvement or use of existing

roads, coal mines must operate in accordance with the standards for surface coal mining operations in § 515 of the Act unless the Secretary modifies the requirements of § 515 by rulemaking. Section 515(b)(17) of SMCRA provides that our regulations must require that mine operators insure that the construction of access roads will control or prevent erosion and siltation, water pollution, property damage, and damage to fish and wildlife or their habitat. The certification requirement of 30 CFR 816.151(a) which is cross-referenced by § 829.150 is intended to implement this statutory provision in part.

2. The information collected will be used as follows:

(a) 816.43 Diversions - Regulatory authorities rely in part upon the certification requirements of 30 CFR 816.43 to ensure that stream diversions are constructed in accordance with approved plans to be stable and environmentally sound.

(b) 816.57 Hydrologic Balance: Stream Buffer Zones - Regulatory authorities use this finding and its underlying analyses to help protect streams and related environmental resources from adverse mining-related impacts.

(c) 816.62 Use of Explosives: Pre-Blasting Survey - The pre-blast survey must determine the condition of the dwelling structure and document any damage and other physical factors that could reasonably be affected by the blasting. In addition, the assessment must include the surface conditions and readily available data about structures such as pipelines, cables, transmission lines, and wells, cisterns, and other water systems. The regulatory authority, the operator and the owner can use the pre-blast survey reports to assess and compare conditions before blasting with those after blasting.

(d) 816.64 Use of Explosives: Blasting Schedule - The blasting schedule publication and republication must list the times when all blasting shall take place as approved by the regulatory authority. In addition, the contents of the schedule for distribution shall identify the name, address and telephone number of the operator, specific areas identified for blasting, dates and time periods, methods used to control access to the blasting area, and the types and patterns of audible warning and all-clear signals to be used. This information is needed by the regulatory authority and residents to provide advance notice and warning of the restrictive time periods and areas for blasting.

(e) 816.67 Use of Explosives: Control of adverse effects - Air blasts are airborne shock waves resulting from the detonation of explosives; ground vibrations are elastic waves emanating from a blast. Adverse effects from the use of explosives are required to be monitored by the operator to remain within the standards established by the regulatory authority. This information is needed by the regulatory authority to document periodic air blast monitoring and seismic records for each blast. Lacking sufficient information, safety could be

jeopardized.

(f) 816.68 Use of Explosives: Records of Blasting Operations - Logs are required to be maintained which includes: the identity of the operator and the person responsible for the blasting in order to match the blast record with the operation and determine if the blaster is certified; the records of the distance to dwellings, which is necessary to determine compliance with the requirement concerning the distance of the blast from dwellings; records of weather conditions which influence air vibration and could require schedule changes; information necessary to determine the magnitude of the blast and conformance with ground vibration limitations; measures to limit flyrock, which is subject to distance restrictions; information basic to seismic tests; and any schedule changes, which are used to determine compliance with the blasting schedule requirements.

The information required is necessary for the regulatory authority to review previously conducted blasts to determine whether the blasts were conducted in accordance with the design performance standards. The information required under this section is customary business practices. Blasting logs have been used by coal operators in states prior to the publication of these rules for insurance and legal purposes. Therefore, the burden associated with this collection is solely the burden to maintain the logs and supply the information as needed to the regulatory authorities and the public.

(g) 816.87 Coal Mine Waste: Burning and Burned Waste Utilization - This section requires that if a potential hazard (like fire) develops, the regulatory authority be notified promptly and that all procedures to safeguard the public be formulated. This will ensure the health and safety of the public and should avoid disasters. Section 816.87(a) requires that coal mine waste fires be extinguished by the operator, in accordance with a plan approved by the regulatory authority and under MSHA regulations at 30 CFR 77.215(j). The burning-coal-waste removal plan under § 816.87(b) is encompassed by the plan under § 816.87(a).

(h) 816.131 Cessation of Operations: Temporary - The required information would assure that the regulatory authority is notified of the cessation, and the operator's activities that would protect or improve the environment, and that the protective measures implemented by the operator will continue, or that appropriate alternative measures have been brought to the regulatory authority's attention. This will facilitate the evaluation of closure measures and provide for their modification, if necessary. Failure to provide this information would allow for loss and degradation of soil and water resources and other environmental mismanagement.

(i) 816.150 Roads: general - Regulatory authorities rely in part upon the construction certification requirements of 30 CFR 816.151 to ensure that mine

roads are constructed in accordance with current, prudent engineering practices and do not present an environmental hazard or threat to property.

3. See List of Identical Responses to Statements.
4. See List of Identical Responses to Statements.
5. See List of Identical Responses to Statements.
6. See List of Identical Responses to Statements.
7. See List of Identical Responses to Statements.
8. See List of Identical Responses to Statements.
9. See List of Identical Responses to Statements.
10. See List of Identical Responses to Statements.
11. See List of Identical Responses to Statements.
12. Reporting and Reviewing Burden

- a. Estimate of Respondent Reporting Burden

The following table represents the burden required by coal refuse remaining operators to prepare the information required by 30 CFR 829.3, and the burden to State regulatory authorities to review the information, as cross-referenced to 30 CFR 816.

**Estimate of Respondent Reporting Burden for § 829.3
(Cross-referenced to 30 CFR 816)**

| Part 816 Counterpart | Number of Operators | Hours per Operator | Number of States | Hours per State | Total Hours Requested |
|----------------------|---------------------|--------------------|------------------|-----------------|-----------------------|
| .43 | 22 | 16 | 0 | 0 | 352 |
| .57 | 0 | 0 | 22 | 20 | 440 |
| .62 | 4 | 120 | 0 | 0 | 480 |
| .64 | 4 | 4 | 0 | 0 | 16 |
| .67 | 4 | 50 | 0 | 0 | 200 |
| .68 | 4 | 12 | 0 | 0 | 48 |
| .87 | 22 | 12 | 0 | 0 | 264 |
| .131 | 4 | 16 | 0 | 0 | 64 |
| .151 | 22 | 15 | 0 | 0 | 330 |
| Total | 22 | 245 | 22 | 20 | 2,200 |

b. Estimated Annual Wage Cost to Respondents

At an average wage rate of \$60 per hour, an average annual cost for all respondents is **\$132,000** [2,200 hours (from 12.a) x \$60 per hour] to comply with new 30 CFR 829.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 829.3 do not involve any capital or start-up costs unique to these requirements. Mining operations require engineering and diversion construction expertise and equipment as part of their customary and usual business practices. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 829.3 at \$150, for a total annual cost of **\$3,300** (22 responses x \$150 per response). These costs consist primarily of fuel and equipment maintenance expenses for travel to the mine, drafting and office

supplies, and copying expenses.

14. Estimate of Annualized Cost to the Federal Government

Oversight: OSM anticipates conducting oversight reviews of State compliance with the requirements of § 829.3 for the first few years after promulgation of the final Abandoned Coal Refuse Remining Rule. Assuming that OSM conducts 1 oversight review and that the review of this section requires an average of 120 hours, the annual cost to the Federal government for this oversight activity at \$30 per hour is an estimated \$3,600.

Federal Programs: OSM estimates that it will receive 1 application for an abandoned coal refuse remining operation for which OSM is the regulatory authority, requiring 20 hours to review the information supplied by the operator. At an average salary of \$30 per hour, the annual wage cost to the Federal government to review the information supplied under § 829.3 will be \$600 (1 finding x 20 hours per review x \$30 per hour). There are no significant non-wage costs associated with preparing these findings.

Total Federal Cost

| | | |
|------|-------|--------------------|
| \$ | 3,600 | Oversight |
| + \$ | 600 | Federal Programs |
| \$ | 4,200 | Total Federal Cost |

15. OSM estimates that between 4 and 22 respondents will be required to prepare the information required by § 829.3 for abandoned coal refuse remining operations, requiring 100 hours each to prepare the requirements for 30 CFR 829.3. This burden includes State regulatory authority review time where required. Therefore, this collection request seeks OMB approval for **2,200 hours**.
16. See List of Identical Responses to Statements.
17. See List of Identical Responses to Statements.
18. See List of Identical Responses to Statements.
- B.** See List of Identical Responses to Statements.

Supporting Statement for 30 CFR 829.41

A. Justification

1. Section 517(b) of the Act requires that the regulatory authority require all mining permit holders establish and maintain appropriate records; make monthly reports to the regulatory authority, install, use, and maintain any necessary monitoring equipment or methods; evaluate results of such methods; and provide such information relative to the operation as the regulatory authority deems reasonable and necessary. Section 829.41 requires that ground- and surface-water monitoring data be submitted in accordance with the monitoring plans specified in the permit application as required by proposed 30 CFR 786.15. Minimally the monitoring data is required to be submitted every 3 months to the regulatory authority or more frequently as prescribed by the regulatory authority until bond release or until the regulatory authority finds that monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan. The above reporting requirements do not exempt the operator from meeting any National Pollutant Discharge Elimination System (NPDES) requirements.
2. This data required under § 829.41 is needed to determine whether any abandoned coal refuse remining operator is in violation of the environmental protection performance standards in hydrologic-balance protection of a state or Federal regulatory program or other requirement of the Act under section 515(b) (10).
3. See List of Identical Responses to Statements.
4. See List of Identical Responses to Statements.
5. See List of Identical Responses to Statements.
6. See List of Identical Responses to Statements.
7. See List of Identical Responses to Statements.
8. See List of Identical Responses to Statements.
9. See List of Identical Responses to Statements.
10. See List of Identical Responses to Statements.
11. See List of Identical Responses to Statements.

12. Reporting and Reviewing Burden

a. Estimate of Respondent Reporting Burden

It is assumed here and in other sections that one respondent represents one remaining operation. OSM estimates that there will be approximately 22 abandoned coal refuse remaining operations actively mining in any given year. We further estimate that 5 surveys (2 surveys, for ground water monitoring and 3 for surface water monitoring) are necessary to comply with this section of the regulations. However, since one of the surface monitoring requirements is performed in support of an EPA's NPDES permit, 4 surveys are required quarterly by OSM. Since four quarterly reports are required, OSM is responsible for 352 reports (22 operations x 4 surveys x 4 quarterly reports).

OSM estimates that a trained technician will take **5 hours** (2 hours for travel; 1 hour for sample collection; and 2 hours for lab and report to the regulatory authority) in association with ground- and surface-water monitoring survey requirements. This burden hour estimation is based on OSM's staff expertise and experience as a regulatory authority under Federal programs and Federal land programs. Therefore, it is estimated that the labor burden hours for all respondents is **1,760 hours** (352 reports x 5 hours per report) which is attributable to OSM regulations.

Regulatory authority personnel are not required to review water monitoring reports apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Therefore, the only information collection burden to State regulatory authorities under 30 CFR 829.41 is the time required to file the reports which constitutes normal, customary business activities.

b. Estimated Annual Wage Cost to Respondents

At an average wage rate of \$60 per hour, an average annual cost for all respondents is **\$105,600** [1,760 hours (from 12.a) x \$60 per hour] to comply with 30 CFR 829.41.

13. Total Annual Non-Wage Cost Burden to Respondents

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

14. Estimate of Cost to the Federal Government

Oversight: OSM anticipates conducting oversight reviews of State compliance with the requirements of § 829.41 for the first few years after promulgation of the final Abandoned Coal Refuse Remaining Rule. Assuming that OSM conducts 4 oversight reviews and that each review of this section requires an average of 40

hours, the annual cost to the Federal government for this oversight activity at \$30 per hour is an estimated \$4,800.

Federal Programs: OSM estimates that it will receive 1 application for an abandoned coal refuse remaining operation for which OSM is the regulatory authority, requiring 20 hours to review the information supplied by the operator. At an average salary of \$30 per hour, the annual wage cost to the Federal government to review the information supplied under § 829.41 will be \$600 (1 finding x 20 hours per review x \$30 per hour). There are no significant non-wage costs associated with preparing these findings.

Total Federal Cost

| | | |
|------|-------|--------------------|
| \$ | 4,800 | Oversight |
| + \$ | 600 | Federal Programs |
| \$ | 5,400 | Total Federal Cost |

15. OSM estimates that 22 respondents will be required to prepare the information required by § 829.41 for abandoned coal refuse remaining operations, requiring **1,760 hours** (352 surveys x 5 hours per report). Therefore, this collection request seeks OMB approval for **1,760 hours**.
16. See List of Identical Responses to Statements.
17. See List of Identical Responses to Statements.
18. See List of Identical Responses to Statements.
- B.** See List of Identical Responses to Statements.

Supporting Statement for 30 CFR 829.49

A. Justification

1. Section 515(b)(8)(B) of the Act requires that permanent water impoundment dams be stable with an adequate margin of safety compatible to that required for dams constructed under P.L. 83-566 (16 U.S.C. 1006)--Watershed Protection and Flood Prevention. Although sedimentation ponds are not permanent structures, the Act in section 515(b)(10)(B)(ii) requires a certification by a qualified registered engineer or a qualified registered professional land surveyor in any state which authorizes land surveyors to prepare and certify such maps or plans that the sedimentation pond was constructed as designed and as approved in the reclamation plan. To assure that these requirements are achieved, § 829.49 cross-references § 816.49 which requires, in (a)(11), that inspections must be made regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond; that after each inspection, the qualified registered professional engineer or a qualified registered professional land surveyor must promptly prepare and provide to the regulatory authority a certified report on the conditions of the structure; and that a copy of the report to be maintained at or near the mine. The report states that the impoundment has been constructed and maintained as designed and in accordance with the approved plan. The report also includes a discussion of any appearance of instability, structural weakness or other hazardous conditions (e.g., elevation of impounded waters), and any other aspects of the structure affecting stability.
2. This report assures the regulatory authority that the impounding structure was constructed in accordance with the approved design plan and will not present a hazard to the public because of unsafe construction practices or lack of proper maintenance. The regulatory authority uses the information in the report to ensure the safety and stability of the impounding structure. Without the report, the regulatory authority would be unable to monitor the condition and safety of the impounding structure and would not be aware of changing conditions of the structure or when it may become a hazard to the health and safety of the public. A copy of the report must be kept at or near the mine site so that a record is available showing the condition of the structure and to assist the regulatory authorities and OSM to enforce the regulations.
3. See List of Identical Responses to Statements.
4. The Mine Safety and Health Administration requires the inspection and monitoring of impounding structures in the requirements of § 77.216(3)(a). Information from these inspections may be incorporated into the certified report, along with the additional information that is required by this regulation.

5. See List of Identical Responses to Statements.
6. See List of Identical Responses to Statements.
7. See List of Identical Responses to Statements.
8. See List of Identical Responses to Statements.
9. See List of Identical Responses to Statements.
10. See List of Identical Responses to Statements.
11. See List of Identical Responses to Statements.
12. Reporting, Record keeping, and Reviewing Burden

- a. Estimate of respondents reporting burden

As described earlier, OSM estimates that 22 abandoned coal refuse remaining operations will be actively producing coal per year. It is estimated that each operation will involve 2 structures. Two reports are required--one, during the construction phase and the other, after construction has been completed. OSM estimates that professional engineers take **4 hours** to prepare the certified report on the condition of the impoundment and to ensure that it has been constructed and maintained as designed and as shown in the approved plan. Therefore, the burden for each respondent is **16 hours** (1 operation x 2 structures x 2 reports per structure x 4 hours per inspection report), and the burden to comply with 30 CFR 829.49 for all respondents would **352 hours** (22 operations x 2 structures/operation x 2 reports x 4 hours/ inspection report).

Impoundment certification reports do not require regulatory authority review apart from the inspections conducted under 30 CFR 840.11, which has its own information collection budget. Since there is no requirement that the certified report be submitted to the regulatory authority, there is no burden associated for regulatory authorities under 30 CFR 829.49.

- b. Estimate of Cost to Respondents

At an average wage rate of \$60 per hour, the annual cost for each respondent would be **\$960** (4 reports x 4 hours/report x \$60). The total annual cost for all respondents would be **\$21,120** [352 hours (from 12.a) x \$60 per hour]. This cost also includes retaining the records at a mining site.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of § 829.49 do not involve any capital or start-up costs unique to these requirements. The expertise and equipment needed to prepare impoundment certifications are no different than the expertise and equipment needed to design and construct the impoundment, which is a customary and usual business expense for mining operations. Similarly, the recordkeeping requirements for State regulatory authorities under this section do not require regulatory authorities to obtain unique or additional equipment or supplies. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

We estimate miscellaneous non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of 30 CFR 829.49 at \$50 per mine per year, for a total annual cost of **\$1,100** (22 refuse remining operations x \$50 per mine). These costs consist primarily of fuel and vehicle maintenance expenses for travel to the mine and copying and postage expenses for providing the regulatory authority with a copy of the certified reports.

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

14. Estimates of Cost to the Federal Government

Oversight: OSM anticipates conducting oversight reviews of State compliance with the requirements of § 829.49 for the first few years after promulgation of the final Abandoned Coal Refuse Remining Rule. Assuming that OSM conducts 4 oversight reviews and that each review of this section requires an average of 40 hours, the annual cost to the Federal government for this oversight activity at \$30 per hour is an estimated \$1,200.

Federal Programs: OSM estimates that it will annually receive approximately 1 application for an abandoned coal refuse remining operation for lands and operations for which OSM is the regulatory authority. At an average salary of \$30 per hour and 1 hour to review each x 4 structure reports x \$30/hour = **\$120**.

Total Federal Cost

\$1,200 Oversight
+ \$ 120 Federal Programs
\$1,320 Total Federal Cost

15. OSM estimates that 22 respondents will be required to prepare the information required by § 829.49 for abandoned coal refuse remaining operations, requiring **352 hours** (22 operations x 2 structures/operation x 2 reports x 4 hours per report). Therefore, this collection request seeks OMB approval for **352 hours**.
16. See List of Identical Responses to Statements.
17. See List of Identical Responses to Statements.
18. See List of Identical Responses to Statements.

B. Collection of Information Employing Statistical Methods

See List of Identical Responses to Statements.

Supporting Statement for 30 CFR 829.81

A. Justification

1. There are two types of coal mine waste disposal facilities: refuse piles and impoundments. The design certification requirements of 30 CFR 816.81(c) for coal mine waste impoundments duplicate the design certification requirements of §§ 780.25(a) and 784.16(a) for all impoundments and are cross-referenced under § 829.81. Since this part has its own information collection budget our estimate of the information collection burden for § 829.81 addresses only refuse piles.

Section 515(b)(3) of the Act requires the operator to backfill, grade and compact the excess burden and other spoil and waste materials after restoring the approximate original contour and to stabilize all coal processing waste through construction of compacted layers. Section 515(b)(11) of the Act also requires that all waste piles must be stabilized through compaction. Section 515(b)(13) requires the design and construction of coal waste piles in accordance with standard engineering practices. Section 516(b)(5) requires that coal mine operators design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon all new and existing coal mine waste disposal facilities in accordance with the standards and criteria developed pursuant to section 515(f) of the Act.

Section 515(f) of the Act requires the Secretary to adopt regulations governing the listed activities. It also requires that the regulations include engineering and technical specifications and provisions for preconstruction review and approval of plans and specifications, periodic inspections during construction, and issuance of certificates upon completion of construction. The regulations at 30 CFR 816, cross-referenced by § 829.81 implement these statutory provisions in part.

2. Regulatory authorities use § 829.81 to ensure that a qualified registered professional engineer experienced in the design of similar earth and waste structures certifies the design of all coal mine waste disposal facilities and that it is designed in accordance with current, prudent engineering practices and does not present a public hazard or threat to property. This section also ensures that, unless the regulatory authority alters the inspection provisions on a case-specific basis, quarterly inspections are made and certified by qualified registered professional engineers until the site is covered with sufficient material to prevent sustained combustion.
3. See List of Identical Responses to Statements.
4. See List of Identical Responses to Statements.

5. See List of Identical Responses to Statements.
6. Information regarding the design certification and foundation requirements is collected once during the design phase of the refuse pile. Less frequent certification would impair the ability of OSM and State regulatory authorities to ensure that coal waste disposal areas are prepared safely and in an environmentally protective manner consistent with the purposes and requirements of the Act. Furthermore, the Act specifically requires submission of some of the requested information at the indicated frequency.

Unless otherwise determined by the regulatory authority, the inspection reports are collected quarterly during the construction of the refuse pile. The information cannot be collected less frequently because the construction phase is an ongoing activity and some segments of the refuse pile would be covered before the next inspection.

7. See List of Identical Responses to Statements.
8. See List of Identical Responses to Statements.
9. See List of Identical Responses to Statements.
10. See List of Identical Responses to Statements.
11. See List of Identical Responses to Statements.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

OSM estimates that 4 abandoned coal refuse remining operations will prepare a coal waste refuse pile and will need to prepare design certifications. Based on our experience, we estimate that each design certification under § 829.81 will require an average of 3 hours. This estimate includes only the time that the engineer needs to review and certify the design. Therefore, 4 certifications x 3 hours = **12 hours**.

OSM also estimates that professional engineers will take 3 hours to prepare, file and maintain a quarterly inspection report for coal waste disposal piles. This burden hour estimation is based on OSM's staff expertise and experience as a regulatory authority under Federal programs and Federal lands programs. OSM estimates that the burden for each respondent is 12 hours (1 waste disposal site x 4 inspection reports x 3 hours per report). Therefore, the burden for reporting is 12 hours x 4 operations = **48 hours**.

Accordingly, we estimate that the annual information collection burden on refuse remaining operators under § 829.81 will total **60 hours**.

b. Estimated Annual Wage Cost to Respondents

At an average salary of \$60 per hour, we estimate that the annual wage cost to abandoned coal refuse remaining operators to comply with the information collection requirements of § 829.81 will total **\$3,600** (60 hours x \$60 per hour).

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annualized Capital and Start-Up Costs

The information collection requirements of 30 CFR 829.81 do not involve any capital or start-up costs unique to these requirements. Mining operations require engineering expertise and equipment as part of their customary and usual business practices. Therefore, we are not assigning any capital or start-up costs to the information collection burden for this section.

b. Operation and Maintenance Costs

There are no significant non-wage operation and maintenance costs to mine operators and permittees for compliance with the information collection requirements of § 829.81.

14. Estimate of Annualized Cost to the Federal Government

Under 30 CFR 773.15, 780.35 and 784.19, designs for refuse piles must be submitted and reviewed as part of a permit application. Checking for design certifications is part of the permit application review process under those regulations (when we are the regulatory authority) or our oversight of that process (when a state is the regulatory authority). Since both of those regulations have their own information collection budgets, the design certification requirements of 30 CFR 829.81 do not involve any added information collection cost to the Federal government.

15. OSM estimates that 4 operators will submit applications for abandoned coal refuse remaining operations which will require coal waste refuse piles. The design certifications will require 12 hours for all operators and 48 hours annually to conduct the inspections. Therefore, this collection request seeks OMB approval for **60 hours**.

16. See List of Identical Responses to Statements.

17. See List of Identical Responses to Statements.

18. See List of Identical Responses to Statements.

B. Collections of Information Employing Statistical Methods

See List of Identical Responses to Statements.