

Supporting Statement

30 CFR §77.1901 - Records of Preshift and Onshift Inspections of Slope and Shaft Areas. (Pertains to slope and shaft sinking operations at coal mines.)

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.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carryout its duty in protecting the safety and health of miners. The sinking of slopes and shafts is a particularly hazardous operation where conditions change drastically in short periods of time. Explosive methane and other harmful gases can be expected to infiltrate the work environment at any time. The working environment is typically a confined area in close proximity to moving equipment. Accordingly, 30 CFR 77.1901 requires operators to conduct examinations of slope and shaft areas for hazardous conditions, including tests for methane and oxygen deficiency, within 90 minutes before each shift, once during each shift, and before and after blasting. The surface area surrounding each slope and shaft is also required to be inspected for hazards.

The standard also requires that a record be kept of the results of the inspections. The record includes a description of any hazardous condition found and the corrective action taken to abate it. The record is necessary to ensure that the inspections and tests are conducted in a timely fashion and that corrective action is taken when hazardous conditions are identified, thereby ensuring a safe working environment for the slope and shaft sinking employees. The record is maintained at the mine site for the duration of the operation.

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.

The records are used by slope and shaft supervisors and employees, State mine inspectors, and Federal mine inspectors. The records show that the examinations and tests were conducted and give insight into the hazardous conditions that have been encountered and those that may be encountered.

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The records of inspections greatly assist those who use them in making decisions that will ultimately affect the safety and health of slope and shaft sinking employees.

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.

No improved information technology has been identified that would reduce the burden, however in order to comply with the Government Paperwork Elimination Act, and 30 CFR 77.1901(f), mine operators may retain the records of preshift and onshift inspections of slope and shaft areas in whatever method they choose, which may include utilizing computer technology.

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.

Generally, this information exists only as a result of the Federal requirement. Some States have a similar requirement, however many do not. A universal system, therefore, remains a necessity. Where States do require similar records, the application of such records would satisfy MSHA requirements.

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.

This information collection does not have a significant impact on small businesses or other small entities. However, MSHA has made available on our web-site various sources of information such as our "Program Policy and Procedures Manual, Volume V" and a power point presentation on our "Single Source Page for Health Standards". These provide tips and general information on various topics, including slopes and shaft areas.

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.

A reduction in the frequency of examinations and tests could allow unsafe conditions to develop, jeopardizing the safety of the slope and shaft sinking employees. Section 101(a)(9) of the Mine Act prohibits any regulatory action that would reduce the protection afforded miners by an existing standard.

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 secret, 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.**

In accordance with 30 CFR 77.1901 (a) and (f), records of preshift and onshift inspections made of slope and shaft areas must be maintained for the duration of the slope or shaft sinking operation. However, MSHA is not aware of any slope or shaft sinking operation that has taken more than 3 years to complete. The collection of this information is otherwise consistent with the guidelines in 5 CFR 1320.5

8. If applicable, provide a copy and identify the data 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 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

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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 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.

MSHA published a 60-day preclearance Federal Register notice on July 25, 2006 (Volume 71, Number 142, Pages 42132-42133), soliciting public comments regarding the extension of this information collection. No comments were received.

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

MSHA has decided not to provide payments or gifts to respondents.

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

There are no records requiring confidentiality.

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.

There are no questions of a sensitive nature.

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

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

- ! If this request for approval covers more than one form, provide separate**

hour burden estimates for each form and aggregate the hour burdens 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 13.

MSHA's records show that there are about 35 slope and shaft sinking operations ongoing on coal mine property at any given time. The average coal mine works 220 days per year and 1.54 shifts per day. Inspections are conducted prior to and during each shift and before and after blasting which, when combined, take an average of 1 hour per shift to conduct and 15 minutes (0.25 hour) per shift to record. MSHA does not track or record the length of time or the number of shifts worked in the completing of a shaft or slope project. However, this estimate of burden hours conservatively estimates that shaft or slope projects are consistent with the mining activities.

Inspections:

$$35 \text{ slopes and shafts} \times 220 \text{ days per year} \times 1.54 \text{ shifts per day} \times 1 \text{ hour} = 11,858 \text{ hours}$$

Recordkeeping:

$$35 \text{ slopes and shafts} \times 220 \text{ days per year} \times 1.54 \text{ shifts per day} \times 0.25 \text{ hour} = \underline{2,965 \text{ hours}}$$

Total Hour Burden = 14,823 hours

Hour Burden Cost

Based on data from the U.S. Coal Mine Salaries, Wages, & Benefits - 2004 Survey Results, MSHA estimates that the 2001 hourly wage rate for supervisory/professional/ technical employees at coal mine operations to be \$59.19 per hour, and \$22.08 per hour for clerical. Accordingly, the hour burden cost is estimated to be:

$$11,858 \text{ hours} \times \$59.19 \text{ per hour} = \$701,875$$

$$2,965 \text{ hours} \times \$22.08 \text{ per hour} = \underline{\$ 65,467}$$

Total Hour Burden Cost = \$767,342

13. Provide an estimate of the total annual 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.)

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- ! **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. 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.**

MSHA does not anticipate that shaft and slope sinking operators will incur any costs other than those described in Item 12.

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.

Because the review of records of preshift and onshift inspections of slope and shaft areas is just one aspect of the inspections required under Section 103(a) of the Mine Act, MSHA believes that this burden is minimal and has assigned no federal cost burden for this specific information collection.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Presently, the coal industry is relatively stable and because of this the rate of development of slopes and shafts has had no appreciable change.

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Therefore, there has been no change in the number of Respondents, Responses, Hours, and Cost.

Respondents: Remains at 35

Responses: Remains at 11,858

Hours: Remains at 14,823

Cost: Remains at \$0

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.

MSHA has no plans to publish the information obtained through this information collection.

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.

There are no forms associated with this collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

There are no certification exceptions identified with this information collection.

B. Collection 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 Form OMB 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 methods 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.

The collection of this information does not employ statistical methods.

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 frequently 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.

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**Federal Mine Safety & Health Act of 1977,
Public Law 91-173,
as amended by Public Law 95-164*An Act**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Federal Mine Safety and Health Act of 1977".

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 103. h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

[Code of Federal Regulations]
[Title 30, Volume 1]
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TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 77_MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK
AREAS OF UNDERGROUND COAL MINES--Table of Contents

Subpart T_Slope and Shaft Sinking

Sec. 77.1901 Preshift and onshift inspections; reports.

(a) Examinations of slope and shaft areas shall be made by a certified person for hazardous conditions, including tests for methane and oxygen deficiency:

- (1) Within 90 minutes before each shift;
- (2) At least once on any shift during which men are employed inside any slope or shaft during development; and
- (3) Both before and after blasting.

(b) The surface area surrounding each slope and shaft shall be inspected by a certified person and all hazards in the vicinity shall be corrected before men are permitted to enter the excavation.

(c) All hazards found during any preshift or onshift inspection shall be corrected before men are allowed to enter, or continue to work in such slope or shaft. If hazardous conditions cannot be corrected, or excessive methane concentrations cannot be diluted, the excavation shall be vacated and no person shall be permitted to reenter the slope or shaft to continue excavation operations until the hazardous condition has been abated.

(d) No work shall be performed in any slope or shaft, no drilling equipment shall be started, and no electrical equipment shall be energized if the methane content in such slope or shaft is 1.0 volume per centum, or more.

(e) Nothing in this Sec. 77.1901 shall prevent the specific assignment of men in the slope or shaft for purposes of abating excessive methane concentrations or any other hazardous condition.

(f) The results of all inspections conducted in accordance with the provisions of paragraph (a) of this section shall be recorded in a book approved by the Secretary.

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