

SUPPORTING STATEMENT

Section 77.1713, Daily Inspection of Surface Coal Mine; Certified Person; Reports of Inspection (pertains to surface 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.

The Secretary shall, in accordance with procedures set forth in Section 101(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), and Section 553 of Title 5, United States Code, develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Section 77.1713, Title 30 of the Code of Federal Regulations (30 CFR §77.1713) requires coal mine operators to conduct examinations of each active working area of surface mines, active surface installations at these mines, and preparation plants not associated with underground coal mines for hazardous conditions during each shift. A report of hazardous conditions detected must be entered into a record book along with a description of any corrective actions taken.

A number of potential hazards can exist at surface coal mines and facilities. Highwalls, mining equipment, travelways, and the handling of mining materials each present -potentially hazardous conditions. Prior to the promulgation of 30 CFR 77.1713 in 1971, numerous miners had either lost their lives or received injuries of varying degrees of seriousness at the areas affected by the subject standard. The majority of the injuries and fatalities resulted from hazardous conditions not detected and corrected. By conducting an on-shift examination for hazardous conditions, mine operators better -ensure a safe working environment for the miners and a reduction in accidents.

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 the mine Safety and Health Administration (MSHA) inspectors to determine compliance with the standard, and that any hazards

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found have either been corrected or barricaded. These records are used by mine operators to identify areas of the mine or equipment that present hazards to miners and, therefore, must be corrected to prevent miner injuries or death. Repeated hazardous conditions in any area or involving a particular piece of equipment would indicate to the operator the need for modification of operating procedures or replacement or repair of equipment.

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 mine operators may keep a record of hazardous conditions detected 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.

The records are the results of examinations conducted at individual mines. There are no similar or duplicate records that could be used. Where State agencies require similar examinations and records, those mine operators may use such records to satisfy this MSHA standard.

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 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 "Technical Assistance," "Best Practices," and an "Accident Prevention" site. To assist with compliance, these provide tips and general information on a number of various topics.

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.

30 CFR 77.1713(a) requires that examinations for hazardous conditions be conducted at least once during each shift. Less frequent examinations could

result in unsafe conditions going undetected and possibly resulting in an accident. The records collected under this standard help MSHA to ensure a safe working environment for miners.

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.**

While there is no specific recordkeeping time frame cited, 30 CFR 77.1713(d) requires that mine operators keep a record book at the mine that contains the hazardous condition found, a report of the action taken to abate hazardous conditions, and the signature or countersignature of a mine official. This collection of information is otherwise consistent with the guidelines in 5 C.F.R. 1320.5, and does not contain any requirements for respondents to report more than quarterly.

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 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 42130-42131), 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 is no assurance of confidentiality provided to respondents. Records are maintained by the mine operator.

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 14.

Operators of surface coal mines are required to conduct examinations of active work areas for hazardous conditions during each shift. Records of the nature and location of any hazardous conditions found and the actions taken to abate the hazardous conditions are required to be kept.

As of the end of fiscal year (FY) 2005, there were approximately 1,620 surface mines and facilities required to make the examinations under Section 77.1713. MSHA estimates that each operation works an average of 1.38 shifts per day, 220 days per year, for a total of 304 examinations at each mine per year. It is further estimated that it will take a mine supervisor (earning approximately \$ 59.19 per hour, based on U.S. Coal Mine Salaries, Wages, & Benefits - 2004 Survey Results), about 1 hour to conduct the examination and approximately 30 minutes (0.5 hour) to make the record.

Examination time:

$$1,620 \text{ mines} \times 304 \text{ examinations} \times 1 \text{ hour} = 492,480 \text{ hours}$$

Recordkeeping:

$$1,620 \text{ mines} \times 304 \text{ records} \times 0.5 \text{ hour} = \underline{246,240 \text{ hours}}$$

$$\textbf{Total burden hours:} = \textbf{738,720 \text{ hours}}$$

Examination Time Cost:

$$492,480 \text{ hours} \times \$59.19 \text{ per hour} \\ = \$29,149,891$$

Recordkeeping cost:

$$246,240 \text{ hours} \times \$59.19 \text{ per hour} \\ = \underline{\$14,574,946}$$

$$\textbf{Total burden hour cost:} = \textbf{\$43,724,837}$$

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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).

- ! 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.**

There are no capital costs specific to compliance with this standard. There is no annual capital cost burden to respondents or recordkeepers resulting from the collection of this information.

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.

MSHA inspectors examine the records during routine inspections. MSHA believes that this burden is minimal and has assigned no cost factor.

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

The rise in Respondents noted below is a result of an increase of 106 surface coal mines and surface facilities. The decreases in Responses and Hours are the result of a lower average number of shifts worked per day (1.54 decreasing to 1.38). These nominal changes reflect the recent ability of the Agency to more efficiently access the mine's quarterly reporting of employment and man hours data and agency inspection records in which the numbers of operating and maintenance shifts for each mining operation are recorded.

Respondents: There has been an increase of 106 Respondents (1,514 to 1,620).

Responses: There has been a decrease of 20,766 Responses (513,246 to 492,480).

Hours: There has been a decrease of 31,149 Hours (769,869 to 738,720).

Cost: The cost has 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 does not intend to publish the results of 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 information 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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1. Describe (including 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.

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.

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

MANDATORY SAFETY AND HEALTH STANDARDS

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

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 [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 R_Miscellaneous

Sec. 77.1713 Daily inspection of surface coal mine; certified person; reports of inspection.

(a) At least once during each working shift, or more often if necessary for safety, each active working area and each active surface installation shall be examined by a certified person designated by the operator to conduct such examinations for hazardous conditions and any hazardous conditions noted during such examinations shall be reported to the operator and shall be corrected by the operator.

(b) If any hazardous condition noted during an examination conducted in accordance with paragraph (a) of this section creates an imminent danger, the person conducting such examination shall notify the operator and the operator shall withdraw all persons from the area affected, except those persons referred to in section 104(d) of the Act, until the danger is abated.

(c) After each examination conducted in accordance with the provisions of paragraph (a) of this section, each certified person who conducted all or any part of the examination required shall enter with ink or indelible pencil in a book approved by the Secretary the date and a report of the condition of the mine or any area of the mine which he has inspected together with a report of the nature and location of any hazardous condition found to be present at the mine. The book in which such entries are made shall be kept in an area at the mine designated by the operator to minimize the danger of destruction by fire or other hazard.

(d) All examination reports recorded in accordance with the provisions of paragraph (c) of this section shall include a report of the action taken to abate hazardous conditions and shall be signed or countersigned each day by at least one of the following persons:

- (1) The surface mine foreman;
- (2) The assistant superintendent of the mine;
- (3) The superintendent of the mine;
- (4) The person designated by the operator as responsible for health and safety at the mine; or,
- (5) An equivalent mine official.

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FR 58613, Oct. 30, 1998]

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