

SUPPORTING STATEMENT

30 C.F.R. §§ 75.1714-3(e), 75.1414-4 Record of Results of Examinations of Self-Rescuers (pertains to underground 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.

Title 30, C.F.R. §75.1714-3(b), (c), (d), and (e) require that self-rescuers be examined regularly at intervals not to exceed 90 days by a qualified person who certifies by date and signature that the tests were conducted. A record must be made when a self-rescue device is removed from service and when corrective action is taken as a result of the examination. The records are used as an enforcement tool to insure that the devices have been examined and are maintained in operable and usable condition. Certifications and records shall be kept at the mine and made available on request to an authorized representative of the Secretary.

On December 8, 2006, a new final rule entitled Emergency Mine Evacuation was published. The rule affected 30 C.F.R. Parts 48, 50, and 75. Specifically, the new rule affecting the estimate of the recordkeeping burdens imposed by 30 C.F.R. § 75.1714-3(e) is § 75.1714-4, Additional self-contained self-rescuers (SCSRs) which requires that in addition to the requirements in §§ 75.1714, 75.1714-1, 75.1714-2, and 75.1714-3, the mine operator shall provide for each person who is underground at least one additional SCSR device which provides protection for a period of one hour or longer, to cover all persons in the mine. 71 Fed. Reg. 71430, 71454 (2006).

The new rule effectively doubles the number of SCSRs that must be examined for which records must be kept. This rule was originally promulgated in an Emergency Temporary Standard on March 9, 2006 (71 Fed. Reg. 12251).

Because of the rugged underground mining environment to which SCSRs are subjected, the potential for these devices being rendered inoperative is high. In the event of a mine fire, mine explosion, or mine inundation, the use of self-rescuers can be the difference between life and death. Therefore it is essential that these devices be examined regularly and that they are maintained in usable and operative condition. These minimum certification and recordkeeping requirements are necessary in order to maintain credibility in the program and provide reasonable assurance that mine operators conduct the required 90-day examination of the self-rescue devices.

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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 MSHA inspectors to determine compliance with the standard and evaluate any trends that may be an indication of a durability or design problem. Company personnel use the information to determine that all self-rescuers have been examined in the required time frame and to document the corrective action that was taken to remove defective devices from service.

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 retain the records 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.

There is no similar or duplicate information that could be used. Records are the results of examinations conducted by the mine operator.

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.

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.

The self-rescue devices are subjected to harsh treatment that could result in damage to the device that may cause the device to malfunction. The 90-day examinations are required to be conducted in accordance with the manufacturer's specifications in order to provide reasonable assurance that the device will continue to function as designed. These are life-saving devices that are relied upon in an emergency. These minimum certification and recordkeeping requirements add credibility to the self-rescuer program, assure that appropriate action is taken to remove defective devices from service, and decrease the likelihood that a miner may be required to use a device that may not provide adequate protection, thus endangering the life of the 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 requirement for the mine operator to report this information to the Agency, underground coal mine operators are required to have certified proof of examinations in place during the time their mines are actively operating and inspected. MSHA inspection personnel review this information, at the mine site, as a part of their routine inspection activities. This information collection is consistent with the guidelines in 5 C.F.R. § 1320.5, and does not contain any requirement for the respondent 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 June 29, 2007 (Volume 72, Number 125, Page 35729, 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 does not 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.

No assurances of confidentiality are provided to respondents. Records are maintained by the

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mine operator. In addition, there is nothing in the record that would be considered confidential information.

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.**

As explained, a recent rule change has effectively doubled the number of SCSRs that require 90 day examinations and records kept of those examinations. The new rule affecting the number of SCSRs was originally promulgated as an Emergency Temporary Standard on March 9, 2006. For this reason, fiscal year 2006 counts of SCSRs should reflect the increase, except that MSHA understands that SCSR manufacturers have not been able to meet the SCSR demand in a timely fashion. Erring on the conservative side, MSHA is assuming for purposes of this burden estimate that, as of the end of FY 2006, SCSR counts did not yet reflect the new requirements. For that reason, MSHA has doubled the burden estimate that would have been attributable to the FY 2006 figures.

Based on FY 2006 figures, there are approximately 719 underground coal mines of which 492 mines reported 38,215 employees and /or coal production. In addition to this reporting, MSHA conducts an annual survey of self-contained self-rescue usage and reports 31,093 self-rescue devices at 269 active underground coal mines were in use at the end of the fiscal year 2006. Each of these devices is required to be examined every 90-days, which amounts to four times annually. It is estimated that it takes an average of 30 minutes (.50 hour) per respondent to certify the examination was conducted and document the date of the examination.

Burden hours:

$$(31,093 \times 2 \text{ rescue devices}) \times 4 \text{ annual responses} \times 0.50 \text{ hours/response} = 124,372 \text{ hours}$$

It is estimated that approximately 200 devices are removed from service annually due to failing the required 90-day examination. Furthermore, it is estimated that it would take approximately 1 minute (0.0167) per device for a respondent to document why a device was taken out of service.

$$200 \text{ self-rescue devices} \times 1 \text{ record/device} \times .0167 \text{ hours/record} = 3.3 \text{ hours}$$

TOTAL BURDEN HOURS

124,375 hours

Burden hour cost:

The inspection of self-rescue devices and the accompanying certifications are usually made by a mine supervisor earning approximately \$63.39 per hour (based on salaries reported in the U.S. Coal Mine Salaries, Wages, & Benefits - 2005 Survey Results). Accordingly, the burden cost is estimated as follows:

$$124,375 \text{ hours} \times \$63.39 \text{ /hour} = \$7,884,131$$

TOTAL BURDEN HOUR COST

\$7,884,131

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 additional costs to respondents.

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 inspection personnel examine the records during routine inspections. MSHA estimates that this burden is minimal and has not included a separate 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 effect of the Self Contained Self Rescuer (SCSR) standard (30 C.F.R. § 75.1714-4) at least doubled the required number of SCSRs to be available, inspected and maintained at underground coal mines. The number of responses increased from 143,592 to 250,344 and the burden hours increased from 71,748 to 124,375. The burden cost remained at \$0.

OMB #1219-0141 was approved for the additional burden in this collection. Once this ICR is approved, the additional burden in this collection for the SCSR will be removed from #1219-0141.

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.

MSHA is not seeking approval to not display the expiration date for OMB approval of this information collection. 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. Collection of Information Employment 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

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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.
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.

As statistical analysis is not required by the regulation, questions 1 through 5 do not apply.

**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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 [Page 595-596]

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR
 PART 75_MANDATORY SAFETY STANDARDS_UNDERGROUND COAL MINES--Table of
 Contents

Subpart R_Miscellaneous

Sec. 75.1714-3 Self-rescue devices; inspection, testing, maintenance,
 repair, and recordkeeping.

(a) Each operator shall provide for proper inspection, testing,
 maintenance, and repair of self-rescue devices by a person trained to
 perform such functions.

(b) After each time a self-rescue device is worn or carried by a
 person, the device shall be inspected for damage and for the integrity
 of its seal by a person trained to perform this function. Self-rescue
 devices with broken seals or which are damaged so that the device will
 not function properly shall be removed from service.

(c) All FSRs approved by MSHA and NIOSH under 42 CFR part 84, except
 devices using vacuum containers as the only method of sealing, shall be
 tested at intervals not exceeding 90 days by weighing each device on a
 scale or balance accurate to within +1 gram. A device that weighs more
 than 10 grams over its original weight shall be removed from service.

(d) All SCSRs approved by MSHA and NIOSH under 42 CFR part 84 shall
 be tested in accordance with instructions approved by MSHA and NIOSH.
 Any device which does not meet the specified test requirements shall be
 removed from service.

(e) At the completion of each test required by paragraphs (c) and
 (d) of this section the person making the tests shall certify by signature and
 date that the tests were done. This person shall make a record of all
 corrective action taken. Certifications and records shall be kept at the
 mine and made available on request to an authorized representative of
 the Secretary.

(f) Self-rescue devices removed from service shall be repaired for
 return to service only by a person trained to perform such work and only
 in accordance with the manufacturer's instructions.

[43 FR 54246, Nov. 21, 1978, as amended at 47 FR 14706, Apr. 6, 1982; 56
 FR 1478, Jan. 14, 1991; 60 FR 30402, June 8, 1995; 60 FR 33723, June 29,
 1995]

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