

SUPPORTING STATEMENT

Training Plans and Records of Training, 30 C.F.R. §§ 48.3, 48.9, 48.23, and 48.29

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 of each regulation mandating or authorizing the collection of information.

The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. § 801 et seq., recognizes that education and training in the improvement of miner health and safety is an important element of federal efforts to make the nation's mines safer places in which to work. Section 115(a) of the Mine Act states that "each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary." Title 30, C.F.R. §§ 48.3 and 48.23 require training plans for underground and surface mines, respectively.

The standards are intended to ensure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal being the reduction of injuries and illness in the nation's mines.

Training plans are required to be submitted for approval to the MSHA District Manager for the area in which the mine is located. Plans must contain the company name, mine name, and MSHA identification number of the mine; the name and position of the person designated by the operator who is responsible for health and safety training at the mine; a list of MSHA-approved instructors with whom the operator proposes to make arrangements to teach the courses and the courses each instructor is qualified to teach; the location where training will be given for each course; a description of the teaching methods and the course materials which are to be used in training; the approximate number of miners employed at the mine and the maximum number who will attend each session of training; the predicted time or periods of time when regularly scheduled refresher training will be given including the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time or length of each session of

training; and for new task training, a complete list of task assignments, the names of personnel conducting the training, the outline of training procedures to be used, and the evaluation procedures to be used to determine the effectiveness of the training.

Title 30, C.F.R. §§ 48.9 and 48.29 require records of training for underground and surface mines, respectively. Upon completion of each training program, the mine operator certifies on a form approved by the Secretary (MSHA Form 5000-23) that the miner has received the specified training in each subject area of the approved health and safety training plan.

The certificates are to be maintained by the operator for a period of 2 years and must be available for inspection at the mine site. In addition, the miner is entitled to a copy of the certificate upon completion of the training and when he leaves the operator's employ.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. For revisions, extensions, and reinstatements of a currently approved collection, indicate the actual use the agency has made of the information received from the current collection.

Upon approval by the MSHA District Manager, training plans are returned to the mine operator. The approved plans are used to implement training programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training. The plans are also used by MSHA to ensure that all miners are receiving the training necessary to perform their jobs in a safe manner.

The Form 5000-23 provides the mine operator with a recordkeeping form, the miner with a certificate of training, and MSHA with a monitoring tool for determining compliance requirements. The form in its present format provides the industry with one form that complies with all the requirements of the training regulations.

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.

The plans can be prepared using personal computers and word processing programs and submitted via e-mail.

Additionally, MSHA has an electronic system (the MSHA Training Plan Advisor) for mine operators to prepare and submit training plans through the internet. This is an optional method for the mining industry to prepare and file required training plans. The design of this system increases the likelihood that the plan will be complete, with the potential to decrease the paperwork burden from approximately 8 hours to 2.25 hours. It is accessed through MSHA's Homepage at <http://www.msha.gov>.

In calendar year 2006, 645 of the 1,788 Coal mine training plans were submitted electronically. Of the 497 Metal/Nonmetal plans received, 353 were submitted via internet.

The MSHA Form 5000-23 is provided by MSHA to the mine operators in a booklet format. The form is also available for downloading on the MSHA web site at <http://www.msha.gov>. The computerized version of the form permits mine operators to enter information on the form electronically and print the completed form as a training certificate. The Form 5000-23 is a recordkeeping form; it is not submitted to MSHA.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.

Training plans are tailored to fit the needs of individual mining operations for which they are developed. There is no similar or duplicate information already available that could be used.

Due to the individualized nature of the training that each miner receives, there is no similar or duplicate information that could be used in lieu of the 5000-23 form.

5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (item 15 of OMB Form 83-I), describe the 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.

Before a new mine is opened or a mine is reopened or reactivated, approval of the training plans must be obtained from MSHA. Once plans are approved, only changes or modifications are required to be submitted for approval.

MSHA Form 5000-23, Certificate of Training, was developed by MSHA for use by the mine operator to record and certify that the miner has received the specified training. Upon completion of each training program, the form is completed by the instructor. All training completed within the miner's 12-month training cycle may be recorded on one form. A copy of the form is given to the miner at the end of the 12-month cycle. A copy of the form is given to the miner at the completion of a single training program upon his or her request.

MSHA inspectors will sometimes ask that mine operators produce training certificates during an inspection in order to ensure that all miners have received the proper training. Without adequate training, miners may sustain serious or even fatal injuries because they lack the knowledge to properly and safely perform various tasks and activities.

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.

There are no requirements for more than quarterly reporting. As noted in item 6 (above), an initial plan must be submitted for MSHA District Manager approval and revised plans whenever changes to that plan are made necessary by changes in ownership and/or circumstances at the mine. Although there is no explicit requirement that a mine operator retain records for more than three years, the operator must maintain a current, approved training plan during the entire time the mine is in operation.

While mine operators are not specifically required to keep Form 5000-23 training records for more than two years or more than 60 days after termination of an employee (30 C.F.R. §§ 48.9 and 48.29), the mine operators must be able to provide current training records for all miners during the time the mine is in operation. This collection of information is otherwise consistent with the guidelines cited in 5 C.F.R. § 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 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 August 22, 2007 (Volume 72, Number 162, Pages 47080-47081), 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.

To the extent that plans are kept by the agency, they are covered by a Privacy Act notice published in the Federal Register. Computer safeguards are as described in the National Bureau of Standards Booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974". Manual records are

stored in locked files and are accessible only to authorized personnel during working hours.

MSHA does not collect nor retain Form 5000-23.

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.

Training Plan

Based upon MSHA's records during calendar year 2006, Coal Mine Safety and Health received 819 new paper plans, 273 new electronic plans, and 696 revised paper and electronic plans. Metal/Nonmetal Mine Safety and Health received 141 new paper plans, 348 new electronic plans, and 8 revised paper and electronic plans. The plans are usually prepared by company personnel. Although the burden on the mine operator is dependent to some degree upon the particular mine's size, MSHA has determined that a typical training plan requires 8 hours to prepare and submit a paper copy, 2.25 hours to complete a plan on-line, and 1 hour to revise a paper or electronic plan. Salaries are based on 2005 Wage Rates. The average wage per hour in 2005 (last available year) for a coal mine safety specialist was \$63.39 and for a metal/nonmetal mine safety specialist was \$47.10.

Burden Hours

Coal:

819 new paper plans x 8 hrs./plan	= 6,552 hrs.
273 new electronic plans 2.25 hrs./plan	= 614 hrs.
696 revised paper and electronic plans x 1 hr./plan	= <u>696 hrs.</u>
Coal Burden Hours	7,862 hrs.

Metal/Nonmetal:

141 new paper plan x 8 hr./plan	= 1,128 hrs.
348 new electronic plan x 2.25 hrs./plan	= 783 hrs.
8 revised paper and electronic plans x 1 hr./plan	= <u>8 hrs.</u>
Metal/Nonmetal Burden Hours	1,919 hrs.

Total Burden Hours 9,781 hrs.

Burden Hour Cost

Coal:

7,862 hrs. x \$63.39 wage rate/hr. = \$ 498,372

Metal/Nonmetal:

1,919 hrs. x \$47.10 wage rate/hr. = \$ 90,385

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Total Burden Hour Cost

\$ 588,757

MSHA Form 5000-23

MSHA requires mine operators to report production, number of employees by work unit, and hours worked on a quarterly basis.

MSHA estimates that 40% of the miners' training is conducted by an employee of the mine operator. Another 40% of the training is conducted by state trainers funded from sources that include federal grants. The specific burden for such state trainers would be difficult to calculate and is therefore not included in this collection. However, MSHA estimates that each form would take approximately 5 minutes to complete. The remaining 20% is conducted by independent training contractors hired by the mine operator. The actual cost of the independent training contractor's time is detailed under Item 13.

For calendar year 2006, the Coal Industry reported approximately 2,112 coal mining operations employing 82,030 miners (excluding office employees). The applicable Metal and Nonmetal Industries (under Part 48) reported approximately 1,104 mining operations employing 69,137 miners (excluding office employees).

Although all of the training completed by a miner within a 1-year period may be recorded on one form, training specialists estimate that for each miner, two forms will probably be completed annually. The simple check-off method for completing the form reduces the preparation time to about 5 minutes (0.08 hour) per form using either the paper or electronic version.

With respect to Coal, the burden is calculated based on 40 percent of miners being trained by company personnel (82,030 miners x 0.40 = 32,812), the number of forms per miner (2), and the estimated time to complete the form (0.08 hour).

With respect to Metal/Nonmetal, the burden is calculated based on 40 percent of miners being trained by company personnel (69,137 miners x 0.40 = 27,655), the number of forms per miner (2), and the estimated time to complete the form (0.08 hour).

Based on MSHA's estimated 2005 wage rate for a Coal mine safety specialist of \$63.39/hour, and a Metal/Nonmetal mine safety specialist of \$47.10/hour, the burden is calculated below.

Burden Hours

Coal:

32,812 miners x 2 forms per miner
 x 0.08 hrs. per form = 5,250 hrs.

Metal/Nonmetal:

27,655 miners x 2 forms per miner
 x 0.08 hrs. per form = 4,425 hrs.

Total Burden Hours 9,675 hrs.

Burden Hour Cost

Coal:

5,250 hrs. x \$63.39 wage rate/hr. = \$332,798

Metal/Nonmetal:

4,425 hrs. x \$47.10 wage rage/hr. = \$208,418

Total Burden Hour Cost \$541,216

TOTAL BURDEN HOURS = 19,456 hrs.

TOTAL BURDEN HOUR COST = \$1,129,973

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.

Training Plan

MSHA estimates no burden hours or cost for course development or the actual training. MSHA provides many publications, training modules and video tapes, as well as accident reports and compilations of accident statistics, routinely used in training courses at little or no cost to the industry. These resources are available to the mining industry and are frequently used by industry trainers whether employed by the mine operator directly or as contractors.

However, MMSHA estimates that it costs approximately \$2 to copy and mail each training plan:

1,640 paper plans (2,285 plans - 645 e-plans)	
x \$2/plan	= \$ 3,280

MSHA Form 5000-23

Approximately 20% of the training is conducted by independent contractors hired by mine operators. It takes approximately 5 minutes (0.08 hours) to fill out a form, and two forms are needed per miner. MSHA estimates that independent contract trainers will charge \$50.00 per hour of instruction.

With respect to Coal, the cost is calculated based on 20 percent of miners being trained by independent contractors (82,030 miners x 0.20 = 16,406). With respect to Metal/Nonmetal, the burden is calculated based on 20 percent of miners being trained by independent contractors (69,137 miners x 0.20 = 13,827).

Coal:

16,406 miners x \$50 per hr.	
x 0.08 hrs. per form	
x 2 forms per miner per year	= \$ 131,248

Metal/Nonmetal:

13,827 miners x \$50 per hr.	
x 0.08 hrs. per form	
x 2 forms per miner per year	= \$ <u>110,616</u>

Total cost to complete forms	= \$ 241,864
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GRAND TOTAL BURDEN COST	= \$ 245,144
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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.

Approval of Plan

In 2006, MSHA approved about 2,285 new or revised training plans. Based on past experience, on average, it takes approximately 8 hours to receive, review, approve, and return each plan or revision. The reviews are done by MSHA technical staff (GS 12/5) earning \$30.57 per hour based on OPM 2007 General Schedule.

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2,285 plans x 8 hrs./plan x \$ 30.57 = \$ 558,820

Printing of Form

MSHA Form 5000-23 is assembled in pads with 50 sets of forms per pad and four forms per set. During 2004 through 2006, MSHA ordered pads of the form costing \$36,000, \$51,745, and \$37,068, respectively. The average cost per year for pads over this 3-year period was \$41,604.

$(\$36,000 + \$51,745 + \$37,068) / 3 \text{ yrs.} = \$ 41,604 \text{ per year}$

TOTAL COST TO FEDERAL GOVERNMENT = \$ 600,424

MSHA inspection personnel routinely check that miners have received the required training by periodic examination of the 5000-23 forms and interviews of the miners. However, such examinations of the mine operator's records are done as a part of a normal, complete mine inspection. Because the review of training records 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.

The number of Respondents increased to 3,216 from 2,947; the number of Responses increased to 123,219 from 115,395; Annual Hours increased to 19,456 from 13,287. The increase in burden hours and cost was primarily due to the increase in the number of mines, which caused a larger number of training plans to be submitted for MSHA approval, along with the overall increase in wage rates for the personnel who prepare plans.

The Annual Costs decreased to \$245,144 from \$1,011,000. The last approved collection included actual training costs of \$765,856 by contractors and should only have included the cost of the paperwork associated with the training. The error has been corrected in this submission.

16. For collections of information whose results are planned to

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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. The OMB control number and expiration date are displayed for the electronic copy of the plan on the MSHA web page and on the Department's elaws web page. The OMB control number and expiration date are displayed on the printed copy of the form and, for the electronic copy of the form, on the MSHA web page.

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.

This collection of information does not employ statistical methods.

**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".

MANDATORY HEALTH AND SAFETY TRAINING

SEC. 115(a) Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that--

(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical hazards, first aid, and the health and safety aspects of the task to which he will be assigned; (2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid, walk around training and the health and safety aspects of the task to which he will be assigned; (3) all miners shall receive no less than eight hours of refresher training no less frequently than once each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than 90 days after the date of

approval of the training plan required by this section; (4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task; (5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

30 CFR § 48.3

Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of an underground mine which is operating on the effective date of this subpart A, the operator of the mine shall submit such plan for approval within 90 days after the effective date of this subpart A.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new underground mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart A, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine.

(b) The training plan shall be filed with the District Manager for the area in which the mine is located.

(c) Each operator shall submit to the District Manager the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and

the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of §48.7 (New task training of miners) of this subpart A, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in §48.2(f) of this subpart A.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under §48.7 of this subpart A.

(d) The operator shall furnish to the representative of the miners a copy of the training plan two weeks prior to its submission to the District Manager. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the District Manager. Written comments received by the operator from miners or their representatives shall be submitted to the District Manager. Miners or their representatives may submit written comments directly to the District Manager.

(e) All training required by the training plan submitted to and approved by the District Manager as required by this subpart A shall be subject to evaluation by the District Manager to determine the effectiveness of the training programs. If it is deemed necessary, the District Manager may require changes in, or additions to, programs. Upon request from the District Manager the operator shall make available for evaluation the instructional materials, handouts, visual aids and other teaching accessories used or to be used in the training programs. Upon request from the District Manager the operator shall provide information concerning the schedules of upcoming training.

(f) The operator shall make a copy of the MSHA approved training plan available at the mine site for MSHA inspection and for examination by the miners and their representatives.

(g) Except as provided in §48.7 (New task training of miners) and § 48.11 (Hazard training) of this subpart A, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the District Manager in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the District Manager or given by persons designated by the District Manager to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Educational Policy and Development, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the District Manager, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in the training plans submitted for approval whether they want to have instructors approved based on monitored performance. The District Manager shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart A, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within the 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the District Manager must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the District Manager on the matter. A decision by the District Manager to revoke an

instructor's approval may be appealed by the instructor to the Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Administrator within 5 days of notification of the District Manager's decision. Upon revocation of an instructor's approval, the District Manager shall immediately notify operators who use the instructor for training.

(j) The District Manager for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the District Manager, or to propose alternate revisions or changes. The District Manager, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The District Manager may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.8(c) (Annual refresher training of miners) of this subpart A, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the District Manager of the area in which the mine is located, and the miners' representative of any changes or modifications the operator proposes to make in the approved training plan. The operator shall obtain the approval of the District Manager for such changes or modifications.

(m) In the event the District Manager disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the District Manager

shall notify the operator and the miners' representative in writing of:

- (1) The specific changes or items of deficiency.
- (2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.
- (3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.
- (n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the District Manager

30 CFR § 48.23

Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of a mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of a mine which is operating on the effective date of this subpart B, the operator of the mine shall submit such plan for approval within 150 days after the effective date of this subpart B.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart B, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine unless the mine is reopened or reactivated periodically using portable equipment and mobile teams of miners as a normal method of operation by the operator. The operator to be so excepted shall maintain an approved plan for training covering all mine locations which are operated with portable equipment and mobile teams of miners.

(b) The training plan shall be filed with the District Manager for the area in which the mine is located.

(c) Each operator shall submit to the District Manager the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

- (4) The location where training will be given for each course.
- (5) A description of the teaching methods and the course materials which are to be used in training.
- (6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.
- (7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.
- (8) For the purposes of §48.27 (New task training of miners) of this subpart B, the operator shall submit:
- (i) A complete list of task assignments to correspond with the definition of "task" in § 48.22(f) of this subpart B.
- (ii) The titles of personnel conducting the training for this section.
- (iii) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c)(8)(i) of this section.
- (iv) The evaluation procedures used to determine the effectiveness of training under §48.27 of this subpart B.
- (d) The operator shall furnish to the representative of the miners a copy of the training plan 2 weeks prior to its submission to the District Manager. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the District Manager. Written comments received by the operator from miners or their representatives shall be submitted to the District Manager. Miners or their representatives may submit written comments directly to the District Manager.
- (e) All training required by the training plan submitted to and approved by the District Manager as required by this subpart B shall be subject to evaluation by the District Manager to determine the effectiveness of the training programs. If it is deemed necessary, the District Manager may require changes in, or additions to, programs. Upon request from the District Manager the operator shall make available for evaluation the

instructional materials, handouts, visual aids, and other teaching accessories used or to be used in the training programs. Upon request from the District Manager the operator shall provide information concerning schedules of upcoming training.

(f) The operator shall make a copy of the MSHA approved training plan available at the mine site for MSHA inspection and examination by the miners and their representatives.

(g) Except as provided in §48.27 (New task training of miners) and §48.31 (Hazard training) of this subpart B, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the District Manager in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the District Manager or given by persons designated by the District Manager to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Educational Policy and Development, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the District Manager, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in training plans submitted for approval whether they want to have instructors approved based on monitored performance. The District Manager shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart B, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once

every 24 months. Before any revocation is effective, the District Manager must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the District Manager on the matter. A decision by the District Manager to revoke an instructor's approval may be appealed by the instructor to the Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Administrator within 5 days of notification of the District Manager's decision. Upon revocation of an instructor's approval, the District Manager shall immediately notify operators who use the instructor for training.

(j) The District Manager for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the District Manager, or propose alternate revisions or changes. The District Manager, in consultation with the operator and the representative of miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The District Manager may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under §48.28(c) (Annual refresher training of miners) of this subpart B, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the District Manager of the area in which the mine is located and the miners' representative of any changes or modifications which the operator proposes to make in the approval training plan. The operator shall obtain the approval of the District Manager for such changes or

modifications.

(m) In the event the District Manager disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the District Manager shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the District Manager.

PART 48--TRAINING AND RETRAINING OF MINERS

Subpart A--Training and Retraining of Underground Miners

30 CFR §§ 48.9**Records of training.**

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the minesite for inspection by MSHA and for examination by the miners, the miner's representative, and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110(a) and (f) of the Act.

(c) Copies of training certificates for currently employed miners shall be kept at the minesite for 2 years, or for 60 days after termination of employment.

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.))

[43 FR 47459, Oct. 13, 1978, as amended at 47 FR 14706, Apr. 6, 1982; 60 FR 33719, June 29, 1995]

30 CFR §§ 48.29**Records of training.**

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the mine site for inspection by MSHA and for examination by the miners, the miners' representative and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110(a) and (f) of the Act.

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