

## SUPPORTING STATEMENT

30 CFR Part 77, Subpart K - Ground Control (Surface Coal Mines and Surface Work Areas of Underground Coal Mines) 77.1000; 77.1000-1

### 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 of The Mine Act requires that frequent inspections and investigations in coal or other mines shall be made each year for the purposes of, among other things, gathering information with respect to mandatory health or safety standards and determining whether an imminent danger exists.

Each operator of a surface coal mine is required under 30 CFR §77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and which will ensure safe working conditions. The mining methods employed by the operator are selected to ensure highwall, pit, and spoil bank stability. In the event of a highwall failure or material dislodgment, there may be very little time to escape possible injury; therefore, preventive measures must be taken. Ground control plans are filed with the District Manager in the district in which the mine is located. The plans are based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. The plan is used to show how the mine operator will maintain safe conditions around the highwalls, pits, and spoil banks, and it is reviewed by MSHA to ensure that highwalls, pits, and spoil banks are maintained in a safe condition through the use of sound engineering design.

- 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 information contained in ground control plans is used by MSHA to ensure that the mine operator is maintaining the highwalls, pits, and spoil banks so that a safe working environment is provided for mine employees, management, and others who visit the mine property.

- 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 develop ground control plans using computer-generated CAD drawings and retain the records using whatever method they choose, which may include utilizing computer technology. However, the plans are generally mailed because they're not conducive to electronic transmission.

- 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.**

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MSHA knows of no other federal, state, or local agency that has a similar paperwork requirement relating to ground control that would duplicate this requirement. All other agencies that inspect coal mines accept and use the ground control plans required by MSHA.

**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.**

MSHA estimates that there are approximately 925 active mines that have approved ground control plans. Such plans reflect Mine Act requirements of mine operators to provide a safe and healthful work environment for employees. If the plans were not submitted, MSHA would not be able to effectively determine whether mine operators are taking the appropriate actions to maintain stable highwalls, pits, and spoil banks.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This collection of information is consistent with the guidelines in 5 CFR §1320.5

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and 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 April 30, 2009 (Volume 74, Number 19987, Pages 19987-1998) 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 payment or gifts to the respondents identified by this collection.

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

No records requiring confidentiality are required.

- 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.

#### Hour Burden

MSHA estimates that it will receive approximately 293 new ground control plans per year, and that it will take a mine operator approximately 8 hours to develop a control plan.

$$293 \text{ new plans} \times 8 \text{ hours/plan} = 2,344 \text{ hours}$$

In addition, MSHA estimates that each year, approximately 34 mine operators will need to submit a revised plan, and that it will take a mine operator approximately 5 hours to draft the revision and submit it for approval.

$$34 \text{ revised plans} \times 5 \text{ hours/plan} = 170 \text{ hours}$$

MSHA estimates that approximately 1 hour of clerical time is required for each plan for copying, filing, mailing, etc.

$$\begin{array}{rcl} 293 \text{ new plans} \times 1 \text{ hour/plan} & = & 293 \text{ hours} \\ 34 \text{ revised plans} \times 1 \text{ hour/plan} & = & \underline{34 \text{ hours}} \\ & & 327 \text{ hours} \end{array}$$

$$\textbf{Total Hour Burden} = \textbf{2,841 hours}$$

#### Hour Burden Cost

Salaries used are based upon salary tables from the U.S. Coal Mine Salaries, Wages, & Benefits – 2007 Survey Results. The hour burden cost associated with the development of new ground control plans is based on \$52.75 per hour for a mining engineer and \$22.62 per hour for clerical support. The total burden hour cost for new and revised plans is as follows:

$$2,514 \text{ hours} \times \$52.75 \text{ per hour (estimated salary of a mining engineer)} = \$132,614$$

The hour burden costs associated with copying, filing, and mailing new and revised ground control plans is as follows:

$$327 \text{ hours} \times \$22.62 \text{ per hour (estimated salary of a clerical worker)} = \$7,397$$

**Total Hour Burden Cost = \$140,011**

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.

MSHA estimates that the only cost associated with submitting ground control plans is the cost of mailing the plans. This cost is calculated as follows:

327 plans and revisions x \$1.59 postage = \$520

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 estimates that approximately 293 new surface strip and open pit coal mines were opened in fiscal year 2007 and submitted ground control plans to MSHA. MSHA also estimates that approximately 34 revised plans were submitted to MSHA. It is estimated that it will take a Safety Specialist (2009 base wage rate for GS 12/5 earning \$32.25 per hour), one-half hour to review an average plan.

293 new plans x 0.5 hours x \$32.25/hour = \$4,725

34 revised plans x 0.5 hours x \$32.25/hour	=	\$ 548
<b>Total Cost to the Federal Government</b>	<b>=</b>	<b>\$5,273</b>

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

Although there is approximately the same number of active mines (925) that have ground control plans , there is a slight increase in responses (from 313 to 327) and hours (from 2,721 to 2,841) due to an increased number of new and revised plans being submitted to MSHA. There has been a slight increase in cost due to the increased number of plans mailed (\$498 to \$520).

**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 the beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results from the information gathered from this collection will not be published.

**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 has no forms associated with this collection of information on which to display an expiration date.

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

There are no certification exceptions identified with this information collection.

## B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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

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