

Supporting Statement

30 C.F.R. § 57.22204, Main Fan Operation and Inspection (applies to underground metal and nonmetal mines which have been categorized as "gassy")

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.

Under Section 103 (a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), "authorized representatives of the Secretary of Labor (Secretary) or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of the Mine Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to the Mine Act, and her experience under the Mine Act and other health and safety laws. For the purpose of making any inspection or investigation under the Mine Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling her responsibilities under the Mine Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine."

30 C.F.R. § 57.22204, which is only applicable to metal and nonmetal underground mines that are categorized as "gassy," requires main fans to have pressure-recording systems. This standard also requires main fans to be inspected daily while operating if persons are underground and certification of such inspections by signature and date.

Certifications and pressure recordings are to be retained for one year and made available to authorized representatives of the Secretary. Potentially gassy (explosive) conditions underground are largely controlled by the main fans. When accumulations of explosive gases, such as methane, are not swept from the mine by the main fans, they may reasonably be expected to contact an ignition source. The results of such contacts are usually disastrous, and multiple fatalities may be reasonably expected to occur. The standard contains significantly more stringent requirements for main fans in “gassy” mines than for main fans in other mines.

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.

Information collected through the pressure recordings has been and is used by mine operators and the Mine Safety and Health Administration (MSHA) for maintaining a constant vigilance on mine ventilation and for ensuring that unsafe conditions are identified early and corrected. Technical consultants may occasionally review such information in addressing main fan or ventilation problems.

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 paperwork burden; however, in order to comply with the Government Paperwork Elimination Act, mine operators may retain the records of certifications and pressure recordings by whatever method they choose, which may include the use of 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.

Fan pressure recordings are required to be kept on file at the mine. There are no duplicate records that could be used. The ventilation at each mine is unique to that mine; therefore, there is no similar data that could be used.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information collection does not have a significant impact on small businesses or other small entities. Nevertheless, MSHA has made available on its web-site various sources of information (links) that provide tips and general information on a number of relevant topics (e.g., "Technical Assistance," "Best Practices," and "Accident Prevention" sites) that could prove useful to small businesses or 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.

MSHA has determined that maintaining proper ventilation is critical to providing the miners with a safe atmosphere in which to work. To require mine operators to inspect fans less frequently than on a daily basis would increase the risk that harmful gases might accumulate and create an explosion hazard.

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.**

Although 30 C.F.R § 57.22204 has no specific requirement that mine operators retain the information collection described above for more than one year, such standard requires

that a mine operator make daily inspections of main fans, and record and certify that such inspections were made, for the entire time the mine is in operation. In addition, in accordance with such standard, the certified records and the pressure recordings must be maintained at the mine for a period of one year. The requirements are consistent with the general information collection guidelines 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 12, 2009 (Vol 74, Number 154, pages 40610-40611, soliciting public comments regarding the extension of this information collection. One favorable comment from the United Mine Workers of America supporting MSHA's safety standards was received.

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

MSHA does not provide any payment or gift to the respondents.

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

There is no personal information requiring confidentiality.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

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

- !** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- !** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- !** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

MSHA estimates that approximately six mines will be affected by this standard. MSHA's records show that there is an average of 2 main fans per mine and that a mine operates approximately 330 days per year. It is estimated that the examination and changing of the pressure-recording system (gauge charts) would require an average of one-half hour per main fan. It has been MSHA's experience that these charts are examined and changed on a daily basis by an hourly employee of the mine operator. The estimated average hourly wage of an hourly employee is \$26.78 (based on U.S. Metal and Nonmetal Mine Salaries, Wages, & Benefits - 2008 Survey Results).

Burden hours:

$$6 \text{ mines} \times 2 \text{ fans} \times 330 \text{ days} \times 0.5 \text{ hour} = 1,980 \text{ hours}$$

Burden cost:

$$1,980 \text{ hours} \times \$26.78/\text{hr.} = \$53,024$$

13. Provide an estimate of the total annual cost burden to respondents or record keepers 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.

Based on figures received from mine operators during various inspections, MSHA estimates the average cost of a pressure-recording system to be \$1,000 per system. The useful life of the system is estimated to be 10 years, with the annualized cost to be amortized at 10% per year over the expected life of the system. Annual maintenance costs are estimated to be approximately 10% of the average cost of the system.

Annual maintenance cost:

6 mines x 2 recording systems (1 system per fan) x \$1,000 per system x 0.10 (10%) = \$1,200

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.

No Federal inspection costs have been associated specifically for this information collection. The examination of these records is just one aspect of an MSHA inspection. As mentioned in response to Item 1, above, under Section 103(a) of the Mine Act, inspections of the entire mine are required 4 times a year for underground mines and twice a year for surface mines.

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

Respondents: The number of Respondents has changed from 8 to 6.

Responses: There has been a decrease of 1,320 responses (from 5,280 to 3,960). The time to change the pressure-recording system, the number of working days throughout a year and the average number of main fans per mine remains unchanged. The decrease is due to a decrease in the number of mines.

Hours: There has been a decrease of 660 burden hours (from 2,640 to 1,980). This is also due to the decrease in the number of mines.

Costs: The annual maintenance cost has increased slightly (from \$1,120 to \$1,200), reflecting an increase in current market prices.

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.

The results from this information 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.

There are no forms associated with this collection. Therefore, MSHA is not seeking approval to not display the expiration date for OMB approval of the 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 Employing Statistical Methods

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

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection methods to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

The collection of this information does not employ statistical methods.

2. Describe the procedures for the collection of information including:

- ! Statistical methodology for stratification and sample selection,
- ! Estimation procedure,
- ! Degree of accuracy needed for the purpose described in the justification,
- ! Unusual problems requiring specialized sampling procedures, and
- ! Any use of periodic (less frequently than annual) data collection cycles to reduce burden.

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.

5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

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

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 103. (a) Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this Act, and his experience under this Act and other health and safety laws. For the purpose of making any inspection or investigation under this Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.