

SUPPORTING STATEMENT

30 CFR 75.310, 75.312, 75.342, 75.351, 75.360, 75.361, 75.362, 75.363, 75.364, 75.370, 75.371 and 75.382 - Ventilation Plans, Tests, and Examinations in Underground Coal Mines

Proposed Rule: Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

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 101(a) of the Federal Mine Safety and Health Act of 1977 (the Mine Act), the Secretary may by rule in accordance with procedures set forth in this section and in accordance with section 553 of Title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. In addition Section 303 requires that all coal mines be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment be examined daily and a record be kept of such examination.

Underground coal mines usually present harsh and hostile working environments. The ventilation system is the most vital life support system in underground mining and a properly operating ventilation system is essential for maintaining a safe and healthful working environment. Lack of adequate ventilation in underground mines has resulted in fatalities from asphyxiation and explosions.

An underground mine is a maze of tunnels that must be adequately ventilated with fresh air to provide a safe environment for miners. Methane is liberated from the strata, and noxious gases and dusts from blasting and other mining activities may be present. The explosive and noxious gases and dusts must be diluted, rendered harmless, and carried to the surface by the ventilating currents. Sufficient air must be provided to maintain the level of respirable dust at or below 2 milligrams per cubic meter of air and air quality must be maintained in accordance with MSHA standards. Mechanical ventilation equipment of sufficient capacity must operate at all times while miners are in the mine. Ground conditions are subject to frequent changes, thus sufficient tests and examinations are necessary to ensure the integrity of the ventilation system and to detect any changes that may require

adjustments in the system. Records of tests and examinations are necessary to ensure that the ventilation system is being maintained and that changes which could adversely affect the integrity of the system or the safety of the miners are not occurring. These examination, reporting and recordkeeping requirements of §§ 75.310, 75.312, 75.342, 75.351, 75.360 through 75.364, 75.370, 75.371, and 75.382 also incorporate examinations of other critical aspects of the underground work environment such as roof conditions and electrical equipment which have historically caused numerous fatalities if not properly maintained and operated.

Diligent compliance with safety and health standards and safety-conscious work practices provide a substantial measure of protection against mine accidents and emergencies. Examinations are the first line of defense for miners working in underground coal mines and are necessary to protect miners. Failure to conduct adequate examinations to identify, report, and correct hazardous conditions and violations of health and safety standards has resulted in serious accidents and fatalities. Section 103(h) of the Mine Act, 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

In addition, paragraphs (d)(1), (e), and (f) of section 303 of the Mine Act retained without change the language of the Federal Coal Mine Health and Safety Act of 1969 that set requirements for preshift, on-shift, and weekly examinations. Specifically, section 303(d)(1) required preshift examinations for specified hazards and for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require (30 U.S.C. 863(d)(1)). Section 303(e) required on-shift examinations for hazardous conditions (30 U.S.C. 863(e)). Section 303(f) required weekly examinations for hazardous conditions, including compliance with the mandatory health or safety standards (30 U.S.C. 863(f)).

Conditions in underground coal mines change rapidly -- roof that appears adequately supported can quickly deteriorate and fall; stoppings can crush out and short-circuit air currents; conveyor belts can become misaligned or belt roller bearings can fail, resulting in an ignition source; and methane can accumulate in areas where it may not have been detected. To assure optimum safety of miners, it is imperative that operators find violations of health or safety standards, correct them, and record corrective actions taken. Records of tests and examinations are necessary to ensure that the ventilation system is being maintained and that operators are complying with MSHA standards.

MSHA's existing regulations for preshift, supplemental, on-shift, and weekly examinations of underground coal mines are set out in 30 CFR 75.360 through 75.362 and 75.364, respectively. Mine examinations under §§ 75.360 through 75.364 require the identification and correction of hazardous conditions in work areas and other critical aspects of the underground work environment that have historically caused numerous fatalities if not properly maintained and operated. Such hazardous conditions include problems with ventilation systems; critical aspects

of the underground work environment include roof conditions and electrical equipment. Sections 75.360 and 75.364 include reporting and recordkeeping requirements; recordkeeping and reporting requirements for §§ 75.361 and 75.362 are set out in § 75.363.

This proposed rule includes new information collection requirements that add to the existing burden and costs of the information collection package for OMB control number 1219-0088. The proposed requirements are discussed below.

To assure optimum safety of miners, it is imperative that operators identify violations of health or safety standards, correct them, and record corrective actions taken. The proposed rule would require operators to identify violations of mandatory health or safety standards. The proposal would also require that the mine operator record and correct violations and review with mine examiners (e.g. the mine foreman, assistant mine foreman, or other certified persons) on a quarterly basis all citations and orders issued in areas where preshift, supplemental, on-shift, and weekly examinations are required. The proposal would assure that underground coal mine operators identify and correct violations of mandatory health or safety standards, thereby improving health and safety for miners.

Proposed § 75.360 would add a requirement that mine operators record any violation of mandatory health or safety standards found on a preshift examination along with the corrective actions taken. The proposed supplemental (§ 75.361) and on-shift (§ 75.362) standards would contain new recordkeeping requirements if a violation of a mandatory health or safety standard is found. Recordkeeping for the proposed amendments to §§ 75.361 and 75.362 would be required under proposed § 75.363. Proposed § 75.363 would require operators to record any violations of mandatory health or safety standards found on supplemental and on-shift examinations and any corrective actions taken. Proposed § 75.364 would require operators to record any violations of mandatory health or safety standards found during a weekly examination along with the corrective actions taken.

MSHA does not intend that the proposal change the general scope of examinations under the existing standards. Examiners would not be required to perform additional tests, take additional measurements or open and examine equipment or boxes. In accordance with the proposed rule, mine examiners would have to note violations, record them in the examination records and the operator would have to assure they are corrected.

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 is available to all interested persons at the mine to assure them that the integrity of the ventilation system is being provided for the miners. The respondents for the proposed rule would be mine operators.

These records would be used by coal mine operators, miners, and state and federal mine inspectors. The records would provide notice to mine management and miners on the oncoming shift of mine conditions, identify hazards and violations of health or safety standards on working sections during the previous shift, and verify that proper ventilation is being maintained.

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 existing regulations incorporate the option for electronic (computer-based) recordkeeping which has the capability of reducing certain facets of the recordkeeping burden and can improve the usefulness of information and can facilitate reviews of the records. Also, a computer-based main mine fan monitoring system can be used to reduce the required examination of the main mine fan from daily to weekly.

The proposed rule does not specify how records are to be kept. They could be kept in the traditional manner (print/hard copy) or stored electronically, provided they are secure and not susceptible to loss or alteration. MSHA encourages mine operators who store records electronically to provide a mechanism to allow the continued storage and retrieval of records for a number of years. No information technology has been identified that would reduce the paperwork burden associated with these proposed standards.

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.

MSHA knows of no other Federal or State reporting requirements that would duplicate the reporting requirements contained in this proposed rule. The records are the results of tests and examinations conducted at individual mines by the mine operator. Similar examinations, tests, and records required by more than one section of Subpart D of 30 CFR Part 75 can be conducted simultaneously. Also, where similar tests and examinations are required by both State agencies and MSHA, the tests are conducted simultaneously and one record is accepted by both agencies. The agency has clarified that state approved books are acceptable for records 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 various sources of information on our web site, such as “Technical Assistance,” “Best Practices,” and “Accident Prevention” to assist with compliance.

The information collection provisions of the proposed standards apply to all operations, both large and small. Congress intended that the Secretary enforce the law at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. [See Rep. No. 181, 95th Cong., 1st Sess. 28 (1977)]. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Act. Accordingly, MSHA takes this into consideration when developing regulatory requirements.

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.

Because mining conditions are constantly changing, miners could be exposed to hazards or violations of health and safety standards that develop as mining progresses. MSHA believes that the recordkeeping requirements for ventilation tests and examinations and violations of health and safety standards observed are the minimum necessary to ensure that mines are safe and adequately ventilated. Reduction in these requirements may result in unsafe conditions developing, thus jeopardizing miners. Section 101(a)(9) of the Mine Act prohibits the agency from reducing the protection given miners by any existing standard. The agency has clarified that once a ventilation plan is approved, the mine operator need only to submit the revised pages or sketches of the plan when proposing revisions unless the District Manager has requested, in writing, that a fully revised plan be submitted.

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.

Conditions in underground coal mines change as mining progresses. Ventilation system and methane and dust control plans are statutory requirements, some of which are required to be recorded and/or reported more frequently than quarterly.

The mine operator is required to conduct examinations at various intervals in accordance with existing regulations. Under the Mine Act, violations of mandatory health and safety standards are required to be reported continually as they occur and are observed.

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

In accordance with 5 CFR 1320.8 (d), MSHA will publish the proposed information collection requirements in the Federal Register, notifying the public that these information collection requirements are being reviewed in accordance with the

Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments. Comments received will be addressed in the preamble to the final rule, and, if necessary, a revised ICR will be submitted.

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

MSHA provides no payments or gifts to the respondents identified in this collection.

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

There is no assurance of confidentiality provided to respondents. Records are maintained by the mine operator and reviewed by MSHA inspectors during routine inspections.

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.**

Due to the proposed rule “Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards” several provisions in this supporting statement have changed. The number of mines affected and the way that mine size is delineated has also changed. Previously this supporting statement had listed mines as small and large, MSHA has updated the way these size categories are listed based on the number of employees. Mines with 1-19 employees, 20-500 employees and 501+ employees are the new size categories. Previously this supporting statement had included the burden hours and cost for the exam itself, however, MSHA has determined that an exam is not paperwork. Only the relevant paperwork associated with the exam, such as making a record or signing will be included in this update.

The following estimation of burden hours is based on the Agency's records and experience of under the existing standards. There are approximately 424 underground coal mines (81 mines with 1-19 employees, 331 mines with 20-500 employees and 12 mines with more than 501 employees) affected by this rule. MSHA's records show that on average there is 1 fan, 1 working section and 1 shift for mines with 1-19 employees; 1.5 fans, 2.5 working sections and 2 shifts per day for mines with 20-500 employees; 1.5 fans, 2.5 working sections and 3 shifts per day for mines with 501+ employees. There are an average of 200 working days in mines with 1-19 employees; 300 working days in mines with 20-500 employees; 350 working days in mines with 501+ employees. All mines work an average of 50 weeks per year. However, the burden hour estimates are based on the total number of weeks fans operate yearly, rather than on the average work weeks.

30 CFR 75.310 - Installation of Main Mine Fans. Each mine is required to be ventilated by one or more main mine fans. This section sets forth requirements and specifications for the installation of main mine fans. Section 75.310(a)(4) requires that each main mine fan be equipped with a pressure recording device, which may be a part of a fan monitoring system, and that the resulting records be maintained for one year. The record, a pressure recording chart, will be generated an average of 50 weeks per year at mines with 1-19 employees and every week (52 weeks) at mines with 20-500 employees and mines with 501+ employees. MSHA estimates that it takes 7 minutes (0.1166 hour) per week to generate and maintain the record for each fan. A miner earning \$35.30 per hour typically performs this task.

Hour Burden

$$81 \text{ mines} \times 1 \text{ fan} \times 50 \text{ weeks} \times 0.1166 \text{ hour} = 472 \text{ hours}$$

331 mines x 1.5 fans x 52 weeks x 0.1166 hour	=	3010 hours
12 mines x 1.5 fans x 52 weeks x 0.1166 hour	=	<u>109 hours</u>
TOTAL Hour Burden	=	3,591 hours

Hour Burden Cost

3,591 hours x \$35.30 per hour	=	
TOTAL Hour Burden Cost	=	\$126,762

30 CFR 75.312 - Main Mine Fan Examinations. Section 75.312(a) and (b) require that examinations be conducted daily on main mine fans not using a monitoring system to ensure electrical and mechanical reliability and every 7 days on main mine fans where monitoring systems are used. Fan examinations are not required on days when no one enters the mine. Although production may not occur, persons enter the mine for maintenance and examinations 240 days per year at mines with 1-19 employees, 365 days per year at mines with 20-500 employees and 365 days at mines with 501+ employees.

Section 75.312(c) requires that the automatic fan signal device for each main mine fan be tested at least once every 31 days. Section 75.312(d) requires that automatic closing doors in multiple main mine fan systems be tested at least once every 31 days. A record of these tests is required under §75.312(g)(3), taking 5 minutes (0.0833 hours) per mine, 12 times yearly. This record can be performed by a miner earning \$35.30 per hour.

Hour Burden

Recordkeeping

424 mines x 12 monthly records x 0.0833 hours	=	424 hours
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Hour Burden Cost

424 hours x \$35.30	=	\$ 14,967
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Section 75.312(f)(1) requires that persons making main mine fan examinations certify by date and initials that the examinations were made. The fan examination certification time is estimated at 1 minute (0.02 hours). A miner earning \$35.30 per hour typically performs this task. There are 45 mines where fan monitoring systems are used and data from the system must be reviewed and certified daily, taking 5 minutes (0.0833 hours).

Hour Burden

81 mines x 240 days x 0.02 hours	=	389 hours
331 mines x 365 days x 0.02 hours	=	2,416 hours
12 mines x 365 days x 0.02 hours	=	88 hours
45 mines (with monitoring systems) x 52 weeks x 0.02 hours	=	47 hours

$$\begin{array}{rcl}
 45 \text{ mines (with monitoring systems)} & & \\
 \quad \times 365 \text{ days} \times 0.0833 \text{ hours} & = & \underline{1,368 \text{ hours}} \\
 \text{TOTAL} & & 4,308 \text{ hours}
 \end{array}$$

$$\begin{array}{rcl}
 \underline{\text{Hour Burden Cost}} & & \\
 4,308 \text{ hours} \times \$35.30 \text{ per hour} & = & \$152,072
 \end{array}$$

Section 75.312(g)(1) requires a record of uncorrected defects found during an examination. Estimated recordkeeping is 5 minutes (0.0833 hour) and MSHA estimates that 306 mines will have uncorrected defects requiring a record each month.

$$\begin{array}{rcl}
 \underline{\text{Hour Burden}} & & \\
 306 \text{ mines} \times 12 \text{ defects per year} & & \\
 \quad \times 0.0833 \text{ hour} & = & 306 \text{ hours}
 \end{array}$$

$$\begin{array}{rcl}
 \underline{\text{Hour Burden Cost}} & & \\
 306 \text{ hours} \times \$35.30 & = & \$ 10,802
 \end{array}$$

Section 75.312(g)(2)(ii) requires that mine operators using monitoring systems to monitor fan pressure make a record concerning monitoring system malfunctions and electrical or mechanical deficiencies, and any sudden increase or loss in mine ventilating pressure. The recordkeeping is estimated to take 10 minutes (0.1666 hour).

$$\begin{array}{rcl}
 \underline{\text{Hour Burden}} & & \\
 \text{Recordkeeping} & & \\
 45 \text{ mines (which use monitoring system)} & & \\
 \quad \times 12 \text{ defects per year} \times 0.1666 \text{ hour} & = & 90 \text{ hours}
 \end{array}$$

$$\begin{array}{rcl}
 \underline{\text{Hour Burden Cost}} & & \\
 90 \text{ hours} \times \$35.30 & = & \$3,177
 \end{array}$$

TOTAL	Hour Burden	5,128
TOTAL	Hour Burden Cost	\$181,018

30 CFR 75.342 - Methane Monitors. Operators must install MSHA approved methane monitors on all face cutting machines, continuous miners, longwall face equipment, loading machines, and other mechanized equipment used to extract or load coal within the working place. In addition, methane monitors must be maintained in permissible and proper operating condition and be calibrated with a known methane-air mixture at least once every 31 days. Under § 75.342(a)(4)(ii), operators are required to keep records of calibration tests. Records would be retained for one year from date of the test. Estimated time to make a record is 5 minutes (0.0833 hour) per month for mines with 1-19 employees, and 8 minutes

(0.1333 hours) for mines with 20-500 and 501+ employees. The record can be made by a certified/qualified electrician earning \$35.30 per hour.

Hour Burden

Recordkeeping

81 mines x 12 months x 0.0833 hours	=	81 hours
331 mines x 12 months x 0.1333 hours	=	529 hours
12 mines x 12 months x 0.1333 hours	=	<u>19 hours</u>
TOTAL Hour Burden	=	629 hours

Hour Burden Cost

629 hours x \$35.30

TOTAL Hour Burden Cost	=	\$22,204
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30 CFR 75.351(h) - Atmospheric Monitoring System. This section applies to mines (58 mines) performing monitoring, which is permitted as an alternative compliance option, in accordance with § 75.323(d)(1)(ii), 75.340(a)(2), and 75.362(f). If an alarm is generated by the system, §75.351(d)(2) requires that an examination be conducted to determine its cause, and a record is required under §75.351(h). The recordkeeping burden has been estimated for 58 mines averaging 7 alarm activations annually. MSHA estimates that it will take 2 minutes (0.033 hour) to make a record of the occurrence. The record can be made by a miner earning \$35.30 per hour.

Hour Burden

Recordkeeping:

58 mines x 7 alarms x 0.033 hours	=	13 hours
TOTAL Hour Burden	=	13 hours

Hour Burden Cost

13 hours x \$35.30

TOTAL Hour Burden Cost	=	\$459
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30 CFR 75.360 - Preshift Examinations. Examinations are required to be conducted within 3 hours prior to the beginning of each shift. On average, a mine with 1-19 employees will conduct 1 examination per day, mines with 20- 500 employees will conduct 2 examinations per day and mines with 501+ employees will conduct 3 examinations per day. Records are required to be made of the results of each preshift examination, any hazardous conditions that are encountered, and their locations during the preshift examination. A record is also required to be made of the action taken to correct hazardous conditions found during the preshift examination. The recordkeeping activity is estimated to take about 15 minutes (0.25 hour) in mines with 1-19 employees and 30 minutes (0.50 hour) in mines with 20 or more employees. Records are typically made by examiners earning \$35.30 per hour. Countersigning by the mine foreman, earning \$84.70 per hour, is

required and takes 5 minutes (0.0833 hours) for mines with 1-19 employees and 10 minutes (0.1666 hours) for mines with 20 or more employees.

Hour Burden

Recordkeeping:

81 mines x 1 exam x 200 days x 0.25 hours	=	4,050 hours
331 mines x 2 exams x 300 days x 0.5 hours	=	99,300 hours
12 mines x 3 exams x 350 days x 0.5 hours	=	<u>6,300 hours</u>
TOTAL	=	109,650 hours

Countersigning:

81 mines x 200 days x 0.0833 hours	=	1,349 hours
331 mines x 300 days x 0.1666 hours	=	16,543 hours
12 mines x 350 days x 0.1666 hours	=	<u>700 hours</u>
TOTAL	=	18,592 hours

Hour Burden = 128,242 hours

Hour Burden Cost

Recordkeeping:

109,650 hours x \$35.30 = \$3,870,645

Countersigning:

18,592 hours x \$84.70 = \$ 1,574,742

Hour Burden Cost = \$5,445,387

Presented below are the additional burden hours and cost for the proposed rule.

Proposed § 75.360 would require operators to record any violations of mandatory health or safety standards found along with the corrective actions taken. MSHA estimates that it would take a certified examiner an average of 3 minutes (0.05 hrs.) out of the total time needed to perform the examination to record the violations along with any corrective actions taken. An examiner conducting a preshift exam earns a supervisory wage of \$84.70 per hour (includes benefits). MSHA's estimates of underground coal operators' annual burden hours and related costs are presented below.

Hour Burden

Recordkeeping:

81 mines x 1 exam x 200 days x 0.05 hrs.	=	810 hours
331 mines x 2 exams x 300 days x 0.05 hrs.	=	9,930 hours
12 mines x 3 exams x 350 days x 0.05 hrs.	=	<u>630 hours</u>
Hour Burden Cost	=	11,370 hours

Hour Burden Costs

11,370 hrs. x \$84.70 wage rate = \$963,039

TOTAL	Hour Burden	=	139,612
TOTAL	Hour Burden Cost	=	\$6,408,426

30 CFR 75.361 - Supplemental Examinations. The existing rule requires a certified person to make a supplemental examination for hazardous conditions, test for methane and oxygen deficiency, and determine if the air is moving in its proper direction before any person enters an area of the mine that has not been preshift examined. Records are not required under this section. If, however, a hazardous condition is found, a record would be required under §75.363.

The proposed rule would contain new recordkeeping requirements if a violation of a mandatory health or safety standard is found during a supplemental examination. Proposed § 75.363 would require operators to record any violations of mandatory health or safety standards found on supplemental examinations and any corrective actions taken.

30 CFR 75.362 - On-shift Examinations. The existing rule requires a certified person to make an on-shift examination of each section where anyone is assigned to work during the shift and any area where mechanized mining equipment is being installed or removed during the shift. This on-shift examination is to look for hazardous conditions, test for methane and oxygen deficiency, and determine if the air is moving in its proper direction. Records are not required under this section. If, however, a hazardous condition is found, a record would be required under §75.363.

The proposed rule would contain new recordkeeping requirements if a violation of a mandatory health or safety standard is found during an on-shift examination. Proposed § 75.363 would require operators to record any violations of mandatory health or safety standards found during the on-shift examination and any corrective actions taken.

30 CFR 75.363 - Hazardous conditions; posting, correcting and recording. The existing rule requires a record of hazardous conditions found, including any found during §§ 75.361 and 75.362 examinations, be recorded along with corrective actions taken to abate the conditions. Also, under § 75.363, a record is required for mines for any hazardous conditions found during the examination after any unintentional fan stoppages lasting greater than 15 minutes. This record must be countersigned by the mine foreman. The time to record a hazard is estimated to be 5 minutes (0.0833 hour), and 3 minutes (0.05 hours) are needed to countersign the record. The record can be made by a person earning \$35.30 per hour and signed by the mine foreman estimated to earn \$84.70 per hour. It is estimated that 100 hazards per year will be recorded at large mines and 50 hazards per year will be recorded in small mines.

Hour Burden
Recordkeeping Time:

81 mines x 50 hazards per yr. x 0.0833 hrs.	=	337 hours
331 mines x 100 hazards per yr. x 0.0833 hrs.	=	2,757 hours
12 mines x 100 hazards per yr. x 0.0833 hrs.	=	<u>100 hours</u>
TOTAL	=	3,194 hours

Countersigning Time:

81 mines x 50 hazards per yr. x 0.05 hrs.	=	203 hours
331 mines x 100 hazards per yr. x 0.05 hrs.	=	1,655 hours
12 mines x 100 hazards per yr. x 0.05 hrs.	=	<u>60 hours</u>
TOTAL	=	1,918 hours

Hour Burden	=	5,112
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Hour Burden Cost

Recordkeeping		
3,194 hours x \$35.30	=	\$112,748

Countersigning

1,918 hours x \$84.70	=	<u>\$162,455</u>
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Hour Burden Hour	=	\$275,203
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Proposed § 75.363 would require operators to record any violations of mandatory health or safety standards found on supplemental and on-shift examinations and any corrective actions taken. The proposed supplemental (§ 75.361) and on-shift (§ 75.362) standards would contain new recordkeeping requirements if a violation of a mandatory health or safety standard is found. During FY 2005 through 2009, MSHA inspectors found an annual average of 22,062 violations of the 10 standards MSHA believes are most likely to be identified on preshift, supplemental, on-shift, and weekly examinations (see Section IV.B.). Because conditions resulting in these violations can occur and require corrective action multiple times during the year (e.g., insufficient rock dust), MSHA multiplied the 22,062 violations found by MSHA inspectors by a factor of 1.5 to arrive at an estimated 33,093 violations that could be found by mine examiners. MSHA assumes that half of these violations, 16,547, would be identified on the preshift and weekly examinations and the other half would be identified on supplemental and on-shift examinations.

Thus, MSHA estimates that the supplemental and on-shift examiners would find approximately 39 violations per year per mine (16,547 violations per year / 424 mines). MSHA estimates that 80 percent of these (31 violations) would be found on the on-shift examinations and 20 percent (8 violations) would be found on the supplemental certified examinations. MSHA estimates that it would take 3 minutes (0.05 hrs.) to record any violations identified and the corrective actions taken. Supervisors earning \$84.70 per hour perform on-shift exams and certified examiners earning \$35.30 perform weekly exams.

Hour Burden

Recordkeeping Time:

424 mines x 39 violations x 0.05 hrs. = 827 hrs.

Hour Burden Cost

827 hrs. x 80% found on the on-shift exams x \$84.70 wage rate = \$56,038

827 hrs. x 20% found on the supplemental exams x \$35.30 wage rate = \$5,839

Hour Burden Cost = \$61,877

TOTAL Hour Burden = 5,939
TOTAL Hour Burden Cost = \$337,080

30 CFR 75.364 - Weekly Examinations. The existing rule requires that at least every 7 days, a certified person examine unsealed worked-out areas where no pillars have been recovered to test for methane concentrations and oxygen deficiency, determine the air quality and if the air is moving in its proper direction, and evaluate the effectiveness of bleeder systems required by § 75.334. This examination is also required to look for hazardous conditions and make measurements and tests to determine the volume of air and methane percentage.

The time required to make the record is estimated to be 35 minutes (0.58 hour) in mines with 1-19 employees and 60 minutes (1.0 hour) in mines with 20 or more employees. Records are completed by examiners earnings \$35.30 per hour. The time needed to review and countersign the record by the mine foreman (\$84.70 per hour) is 5 minutes (0.0833 hours) at mines with 1-19 employees and 10 minutes (0.1666 hours) at mines with 20 or more employees.

Hour Burden

Recordkeeping Time:

81 mines x 50 weeks x 0.58 hours = 2,349 hours

331 mines x 50 weeks x 1.0 hours = 16,550 hours

12 mines x 50 weeks x 1.0 hours = 600 hours

TOTAL = 19,499 hours

Countersigning

81 mines x 50 weeks x 0.0833 hours = 337 hours

331 mines x 50 weeks x 0.1666 hours = 2,757 hours

12 mines x 50 weeks x 0.1666 hours = 100 hours

TOTAL = 3,194 hours

Hour Burden = 22,693 hours

<u>Hour Burden Cost</u>		
Recordkeeping		
19,499 hours x \$35.30	=	\$688,315
Countersigning		
3,194 hours x \$84.70	=	<u>\$270,532</u>
Burden Hour Cost	=	\$958,847

The proposed rule would require that a record be made identifying any violations of mandatory health or safety standards, along with the corrective actions taken, found during a weekly examination. MSHA estimates that it would take a certified examiner 3 minutes (0.05 hrs.) out of the total time needed to perform the examinations to record violations along with any corrective actions taken. An examiner conducting these examinations earns a non-supervisory wage of \$35.30 per hour (includes benefits). MSHA also estimates that, on average, mines operate for 50 weeks out of the year.

<u>Hour Burden</u>		
• 424 mines x 50 weeks x 0.05 hrs.	=	1,060 hrs.
<u>Hour Burden Costs</u>		
• 1,060 hrs. x \$35.30 wage rate	=	\$37,418
TOTAL	Hour Burden	= 23,753
TOTAL	Hour Burden Cost	= \$996,265

30 CFR 75.370 - Mine Ventilation Plan Submission and Approval. The mine operator must submit a proposed ventilation plan in writing to the district manager for approval and that plan must be reviewed by both the mine operator and MSHA every six months. However, once a ventilation plan is approved, the operator needs to submit only the revised pages, sketches, and drawings of the plan when proposing revisions, unless the district manager requests in writing that the mine operator submit a new fully revised plan. The operator must update the plan as often as is necessary to ensure that the plan is suitable to current conditions in the mine.

The mine operator must notify the representative of the miners of any proposed and approved ventilation plan or plan revision, and upon request, provide a copy. In addition, 3 copies of the mine ventilation map must be submitted annually including supplemental information listed in 75.372 requiring one hour per copy. Plan updates and maps are prepared by a mine management professional earning \$84.70 per hour. Mines with 20 or more employees will submit 4 updates requiring 16 hours and 3 maps requiring 1 hour each. (Note: mines with 1-19 employees will

generally contract out for this service. They will submit 2 updates annually requiring 4 hours and 3 maps requiring 1 hour each. Therefore, the burden is included here but the costs are included in paragraph 13.)

Hour Burden

Hour Burden Estimate for mines with 1-19 employees

Recordkeeping:

Plan updates:

81 mines x 4 hours x 2 updates = 648 hours

Ventilation Map:

81 mines x 3 maps x 1 hour per map = 243 hours

Copying:

81 mines x 0.5 hours x 2 updates = 81 hours

Burden Hours = 972 hours

Hour Burden Estimate for mines with 20 or more employees

Recordkeeping:

Plan updates:

331 mines x 16 hours x 4 updates = 21,184 hours

12 mines x 16 hours x 4 updates = 768 hours

Ventilation Map:

331 mines x 3 maps x 1 hour per map = 993 hours

12 mines x 3 maps x 1 hour per map = 36 hours

Copying:

331 mines x 0.5 hours x 4 updates = 662 hours

12 mines x 0.5 hours x 4 updates = 24 hours

Burden Hours = 23,667 hours

972 + 23,667 = 24,639

Hour Burden Costs

Updates and Maps

24,639 hours x \$84.70 = \$2,086,923

TOTAL	Hour Burden	=	24,639
TOTAL	Hour Burden Cost	=	\$2,086,923

Sections 75.371(r), (kk), (ll), (mm), (nn), (oo), and (pp) provide that certain information required in §§ 75.325 and 70.1900 be recorded in the mine operator's ventilation plan required by existing § 75.370. MSHA estimates that the time required to record the additional information in the existing ventilation plan will be 20 minutes (0.3333 hours) for 53 mines with 20 or more employees and 10 minutes (0.1667 hours) for 38 mines with 1-19 employees. The information is recorded by a mine supervisor earning \$84.70 per hour.

Recordkeeping Burden Hours in Existing § 75.371:

53 mines x (0.3333 hour)	=	18 hours
38 mines x (0.1667 hour)	=	<u>6 hours</u>
Burden Hours	=	24 hours

Recordkeeping Burden Hour Costs in Existing § 75.371

18 hours x \$84.70 wage	=	\$ 1,525
6 hours x \$84.70 wage	=	<u>\$ 508</u>
Burden Hour Cost	=	\$ 2,033

75.382 - Mechanical Escape facilities

Section 75.382(c) requires that mines employing mechanical escape facilities must conduct a weekly examination to assure that the facility is in proper operating condition. Section 75.382(g) requires that the examiner certify by date, time, and initials, that the examination was conducted. It is estimated that 250 such facilities are in use at large mines operating 50 weeks per year and that the certification will take 1 minute (0.02 hrs.). The certification can be conducted by a miner earning \$35.30 per hour.

Hour Burden

250 facilities x 0.02 hours x 50 weeks	=	250 hours
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Hour Burden Cost

250 hours x \$35.30	=	\$8,825
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TOTAL	Hour Burden	=	250 hours
TOTAL	Hour Burden Cost	=	\$8,825 hours

SUMMARY

30 CFR Section	Burden Hours	Burden Hour Cost
75.310	3,591	\$ 126,762
75.312	5,128	\$ 181,018
75.342	629	\$ 22,204
75.351(h)	13	\$ 459
75.360	139,612	\$ 6,408,426
75.363	5,939	\$ 337,080
75.364	23,753	\$ 996,265
75.370	24,639	\$ 2,004,595
75.371	24	\$2,033
75.382	250	\$ 8,825
TOTAL	203,578	10,087,667

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.**

The mine operator must submit a proposed ventilation plan in writing to the district manager for approval and that plan must be reviewed by both the mine operator and MSHA every six months. However, once a ventilation plan is approved, the operator needs to submit only the revised pages, sketches, and drawings of the plan when proposing revisions, unless the district manager requests in writing that the mine operator submit a new fully revised plan. The operator must update the plan as often as is necessary to ensure that the plan is suitable to current conditions in the mine.

Mines with 1-19 employees will generally contract out for this service. These mines will submit 2 updates annually requiring 4 hours and 3 maps requiring 1 hour each. The burden hours associated with these updates were included in item 12. Eight hundred ninety one hours were for the updates and maps and 81 hours for copying. The costs are presented below.

Burden Hour Costs

Updates and Maps 891 hours x \$84.70	=	\$75,467
Copying: 81 hours x \$26.00	=	<u>\$ 2,106</u>
TOTAL COST	=	\$77,573

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.

The review/inspection of ventilation plans, test results and examination in underground mines is just one aspect of the annual inspection. Complete

inspections are required under section 103(a) of the Mine Act and are required 4 times a year for underground mines. The average time required to finish a complete inspection is 92.5 hours, and the average grade and salary of a mine inspector is GS 12/5, at \$32.73 per hour.

The recurring cost to the Federal Government each year is as follows: There are 424 active underground mines: 81 mines with 1-19 employees, 331 mines with 20-500 employees and 12 mines with 501+ employees. It is estimated that mines with 1-19 employees will average 3 revisions, or supplements (including the ventilation map) each year and mines with 20 or more employees will average 5 revisions, or supplements (including the ventilation map). On average MSHA personnel will take 3 hours to review submission. The recurring cost to the Federal Government is estimated as follows:

Reviews by MSHA:

81 mines x 3 revisions x 3 hours/revision x \$32.73 hour	=	\$ 23,860
331 mines x 5 revisions x 3 hours/revision x \$32.73 hour	=	\$ 162,504
12 mines x 5 revisions x 3 hours/ revision X \$32.73 hour	=	<u>\$ 5,891</u>
TOTAL Cost	=	\$ 192,255

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

Respondents: There has been a decrease in the number of Respondents (612 to 424). This is due to a decrease in the number of underground coal mines.

Hours: There was a decrease of 1,621,770 hours (1,824,456 to 203,578). The decrease in the number of hours reflects the elimination of the examinations and calibration as paperwork burden hours.

Costs: There has been a significant decrease of \$53M (\$63M to \$10M). This is due to the elimination of examinations and calibration as paperwork costs.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA does not intend to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the

information collection, explain the reasons that display would be inappropriate.

There are no forms associated with this information collection; therefore, MSHA is not seeking approval to display the expiration date for OMB approval of 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 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.

This collection of information does not employ statistical methods.