

SUPPORTING STATEMENT

Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines, 30 CFR 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, CFR 48.3 and 48.23 require training plans for underground and surface mines, respectively. The standards are intended to assure 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 and length of each session of training; and for new task training, a complete list of task assignments, the titles of personnel conducting the training, the outline of training procedures used, and the evaluation procedures used to determine the effectiveness of the training.

Title 30 CFR 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/she 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.

Once approved 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 assure that all miners are receiving the training necessary to perform their jobs in a safe manner.

The Certificate of Training 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 2009, 1,597 Coal mine training plans were submitted, and 734 were submitted for Metal/Nonmetal equaling 2,331 total plans. MSHA further estimates that 50% of all plans will be submitted electronically.

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 assure 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 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.**

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 CFR 48.9 and 48.29), the mine operator 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 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 *Federal Register* notice on December 17, 2010 (75 FR 79030). 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.

Form MSHA 5000-23 notifies respondents that their information will be kept confidential to the extent required by law. The form also indicates it includes Privacy Act material; however, the Department has re-evaluated that claim. The MSHA intends to change the form to delete the claim at the same time as the form is updated to reflect a new expiration date. The Department would clear that change with the OMB through a nonsubstantive change request. The collected information also is protected under OMB Circular A-130, Management of Federal Information Resources, the Computer Fraud & Abuse Act of 1986, Department of Labor (DOL) policies covering Network Operations and LAN Management and DOL's Privacy Policy on Data Collection over DOL Web Sites, and by the Federal Information Security Management Act (FISMA) of 2002, Title III, Public Law 107-347, as part of the E-Government Act of 2002.

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 from reporting districts it is estimated that during calendar year 2009, Coal Mine Safety and Health received 767 new plans and 830 revised plans, Metal/Nonmetal Safety and Health received 263 new plans, and 471 revised plans. It is further estimated that 50% of the new plans were electronic submissions and 50% of the revised plans were electronic.

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 2009 Wage Rates. The average wage per hour in 2009 (last available year) for a coal mine safety specialist was \$77.35 and for a metal/nonmetal mine safety specialist was \$59.73.

Burden Hours

Coal:

384 new paper plans x 8 hrs./plan	= 3,072 hrs.
383 new electronic plans x 2.25 hrs./plan	= 862 hrs.
830 revised paper and electronic plans x 1 hr./plan	= 830 hrs

Coal Burden Hours = 4,764 hrs.

384 new paper plans + 383 new electronic plans + 830 revised plans = 1,597 Responses

Metal/Nonmetal:

132 new paper plan x 8 hr./plan	= 1,056 hrs.
131 new electronic plan x 2.25 hrs./plan	= 295 hrs.
471 revised paper and electronic plans x 1 hr./plan	= 471 hrs.

Metal/Nonmetal Burden Hours = 1,822 hrs.

132 new paper plans + 131 new electronic plans + 471 revised plans = 734 Responses

Training Plan Total Burden Hours = 6,586 hrs.

Responses for Training Plans = 1,597 + 734 = 2,331

Burden Hour Cost

Coal:		
4,764 hrs. x \$77.35 wage rate/hr.		= \$ 368,495
Metal/Nonmetal:		
1,822 hrs. x \$59.73 wage rate/hr.		= \$ 108,828
Training Plan Total Burden Hour Cost		= \$ 477,323

MSHA Form 5000-23

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 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 is included in the answer to Item 14.

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 2009, the Coal Industry reported approximately 2076 coal mining operations employing 87,044 miners (excluding office employees). The applicable Metal and Nonmetal Industries (under Part 48) reported approximately 941 mining operations employing 45,499 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 (87,044 miners x 0.40 = 34,818), 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 (45,499 miners x 0.40 = 18,200), the number of forms per miner (2), and the estimated time to complete the form (0.08 hour).

Based on MSHA's estimated 2009 wage rate for a Coal mine safety specialist of \$77.35/hour, and a Metal/Nonmetal mine safety specialist of \$59.73/hour, the burden is calculated below.

Burden Hours

Coal:
34,818 miners x 2 forms per miner = 69,636 responses
69,636 responses x 0.08 hrs. per form = 5,571 hrs.

Metal/Nonmetal:
18,200 miners x 2 forms per miner = 36,400 responses
36,400 responses x 0.08 hrs. per form = 2,912 hrs.

5000-23 Total Burden Hours = 8,483 hrs.

Responses for Form 5000-23 = 106,036

Burden Hour Cost

Coal:
5,571 hrs. x \$77.35 wage rate/hr. = \$430,917

Metal/Nonmetal:
2,912 hrs x \$59.73 wage rate/hr. = \$173,934

5000-23 Total Burden Hour Cost = \$604,851

TOTAL RESPONSES = 108,367

GRAND TOTAL BURDEN HOURS = 15,069 hrs.

GRAND TOTAL BURDEN HOUR COST = \$1,082,174

13. Provide an estimate for 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 collections 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 Plans

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

1165 paper plans (2331 plans – 1166 e-plans)	
x \$2/plan	= \$ 2,330

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, MSHA-approved contract trainers will charge \$63.00 per hour of instruction. With respect to Coal, the cost is calculated based on 20 percent of miners being trained by independent contractors (87,044 miners x 0.20 = 17,409). With respect to Metal/Nonmetal, the burden is calculated based on 20 percent of miners being trained by independent contractors (45,499 miners x 0.20 = 9,100).

Coal:

17,409 miners x \$63 per hr.	
x 0.08 hrs. per form	
x 2 forms per miner per year	= \$ 175,483

Metal/Nonmetal:

9,100 miners x \$63.00 per hr.	
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x 0.08 hrs. per form	
x 2 forms per miner per year	= \$ 91,728
Total cost to complete forms	= \$ 267,211
GRAND TOTAL BURDEN COST	= \$ 269,541

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 2009, MSHA approved about 2331 new or revised training plans. Based on past experience, on average, it takes approximately 5 hours to receive, review, approve, and return each plan or revision. The reviews are done by MSHA technical staff (GS 12/5) earning \$32.73 per hour based on OPM 2009 General Schedule.

$$2,331 \text{ plans} \times 5 \text{ hrs. per plan} \times \$ 32.73 = \$ 381,468$$

Printing of Form

MSHA Form 5000-23 is assembled in pads with 50 sets of forms per pad and four forms per set. During 2007 through 2009, MSHA ordered pads of the form costing \$31,902, \$49,866, and \$58,544 respectively. The average cost per year for pads over this 3-year period was \$46,771.

$$(\$31,902 + \$49,866 + \$58,544) / 3 \text{ yrs.} = \$ 46,771 \text{ per year}$$

State Trainers

Approximately 40% of the training is conducted by state trainers funded from sources that include federal grants. It takes approximately 5 minutes (0.08 hours) to fill out a form, and two forms are needed per miner. MSHA assumes that the rate per hour is similar to that charge by an independent contractor which is \$63 per hour. The numbers of miners trained are: 34,818 coal miners (87,044 coal miners x 40%) and, 18,200 Metal/Nonmetal miners (45,499 Metal/Nonmetal miners x 40%).

Coal:

$$34,818 \text{ miners} \times 2 \text{ forms per miner per year} \\ \times 0.08 \text{ hours. per form} \times \$63 \text{ per hr.} = \$350,965$$

Metal/Nonmetal:

$$18,200 \text{ miners} \times 2 \text{ forms per miner per year}$$

x 0.08 hrs per form x \$63 per hr. = \$183,456

GRAND TOTAL COST TO FEDERAL GOVERNMENT = \$962,660

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.

There are no program changes. The burden hour cost decreased, because of increased use of the electronic systems and a decrease in the number of miners trained. Costs have increased because the MSHA has more fully considered certain expenses.

16. For collections of information whose results are planned to 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 will 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 Certificate of Training form and, for the electronic copy of the form, on the MSHA web page.

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 exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of this information does not employ statistical methods.