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4/2016
Exp. Date: 10/31/16
Operations Under Water

**Supporting Statement for
Paperwork Reduction Act Submissions**

OMB Control Number: 1219 - 0020

Title: Operations Under Water

Form Number(s): None

Authority: 30 CFR 75.1716-3

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses or employ statistical methods” is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions_

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, Section 101(a) of the Mine Act, 30 U.S.C. 811 authorizes the Secretary to 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 and metal and nonmetal mines.

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Title 30 CFR Sections 75.1716, 75.1716-1 and 75.1716-3 require operators of underground coal mines to provide MSHA notification before mining under bodies of water and to obtain a permit to mine under a body of water if, in the judgment of the Secretary, it is sufficiently large to constitute a hazard to miners. The regulation is necessary to prevent the inundation of underground coal mines with water that has the potential of drowning miners.

The coal mine operator submits an application for the permit to the District Manager in whose district the mine is located. Applications contain the name and address of the mine; projected mining and ground support plans; a mine map showing the location of the river, stream, lake or other body of water and its relation to the location of all working places; and a profile map showing the type of strata and the distance in elevation between the coal bed and the water involved. MSHA has provided an exemption from notification and permit application for mine operators where the projected mining is under any water reservoir constructed by a Federal agency as of December 30, 1969, and where the operator is required by such agency to operate in a manner that adequately protects the safety of miners. The exemption for such mining is addressed by 30 CFR Sections 75.1716 and 75.1717.

MSHA also encourages mine operators to provide more information in an application. When the operator files an application for a permit, in addition to the information required under 30 CFR Section 75.1716-3, operators are also encouraged to include a map of the active areas of the mine under the body of water showing the following: bottom of coal elevations (minimum 10-ft contour intervals); the limits of the body of water and the estimated quantity of water in the pool; the limits of the proposed "safety zone" within which precautions will be taken; overburden thickness (depth of cover) contours; corehole locations; and known faults, lineaments, and other geologic features.

If the body of water is contained within an overlying mine, then MSHA recommends a map of the overlying mine showing bottom of coal elevations (minimum 10-ft contour intervals), when available, corehole locations, the limits of the body of water with the estimated quantity of water in the pool, and interburden to active mine below be provided. Operators are also encouraged to submit the methods that were used to estimate the quantity of water in the pool, borehole logs, including geotechnical information (RQD, fracture logs, etc.) if available, rock mechanics data on the overburden, interburden, mine roof, and mine floor, if available; mining height of the

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seam being mined, pillar and floor stability analyses for the active mine, whether second mining is planned, whether mining will be conducted down-dip or up-dip, where water will flow to in the active mine if encountered, pumping capabilities for dewatering, a comprehensive evacuation plan for the miners, and a statement of what in-mine conditions would trigger the implementation of the evacuation plan, and training that will be provided to the miners regarding the potential hazards.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collections, indicate the actual use the agency has made of the information received from the current collection.

Before issuing a permit, MSHA relies upon the information collected to make a detailed analysis of the data concerning the strata between the body of water and the proposed mine workings to determine if mining can be conducted safely.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

No improved information technology has been identified that would reduce the burden. Permit applications submitted under section 75.1716 are typewritten notices consisting of narratives, descriptions, lists, tables and drawings that can be prepared using Personal Computers, automated drafting and word processing programs. Mine operators may submit such documents via e-mail, where the mine operator has the capability of affixing transmittable authorization signatures, or where the e-mail or facsimile is followed by a signed hard copy. E-mail submissions occur approximately 25 percent of the time.

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.

No similar or duplicate information exists.

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5. If the collection of information impacts small businesses or other small entities, describe the methods used to minimize burden.

This information does not have a significant impact on small businesses or other small entities.

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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.

If MSHA did not collect this information then it could not make a detailed analysis to determine if the proposed plan to mine under bodies of water could proceed safely.

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;

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- **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.**

This collection of information is consistent with the guidelines in 5 CFR Section 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 the 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 May 20th, 2016 (81 FR 31966). MSHA received no comments.

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

MSHA does not provide payment or gifts to the respondents.

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

MSHA does not provide any assurance of 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.**
- **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.**

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A mine operator must notify MSHA before mining under bodies of water and must obtain a permit if MSHA determines that the mining operation would constitute a hazard to miners. Typically, the permit application is submitted at the recommendation of MSHA at the time that MSHA conducts its annual review of mining projections submitted by the mine operator in accordance with 30 CFR Sections 75.371 and 75.1203. Coal mines in active status whose operators propose to mine coal under a body of water are required to submit a permit application under 30 CFR 75.1716-3.

Based upon historical experience, MSHA expects mine operators to submit 91 permit applications each year. MSHA estimates that it would take an average of 5.5 hours to prepare and submit a permit application. Since MSHA recommends that operators include the additional information described in Item 1, the Agency estimates that it will take 30 minutes of the 5.5 hours to complete the permit application. MSHA estimates that the annual burden hours are:

91 applications x 5.5 hours/application = **501 burden hours.**

Permit applications contain mining projections, information on proposed roof support systems, and an analysis of the potential for inundation based upon the type of strata separating the proposed workings from the body of water. Such information is compiled by supervisory geological or mining engineers or engineering consultants that earn an equivalent wage of an underground coal mine supervisor, which is \$103.26 per hour¹. MSHA estimates the annual burden cost associated with the operators' burden hours to be:

501 burden hours x \$103.26/hr. = **\$51,733.**

Question 12 Totals
Respondents = 91
Responses = 91
Burden Hours = 501
Burden Costs = \$51,733

¹ Hourly wage rate, including benefits, developed from tabulations in the U.S. Coal Mines Salaries, Wages, and Benefits – 2012 Survey Results, InfoMine USA, Inc., 2012 <http://costs.infomine.com/laborcompensationreports/>. The hourly wage rates were adjusted from 2012 to 2015 using a percent change of 5.8%, derived from the Bureau of Labor Statistics' Employment Cost Index (ECI), CIU2010000405000I, for "private industry workers in Construction, extraction, farming, fishing, and forestry occupations," <http://www.bls.gov/ect/> and <http://data.bls.gov/timeseries/CIU2010000405000I>. (\$103.26 = \$97.60 x 1.058)

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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 already reflected on the burden worksheet).

There is no equipment that respondents or recordkeepers must purchase specifically for the purpose of providing/gathering the information required by these standards. The notices and permit application are prepared on office equipment and or engineering equipment maintained at the mine for normal business activities. However, since these documents are mandatory requirements most if not all are sent to MSHA by certified mail so that a record of delivery is secured by the mine operator(s). Seventy-five percent of the 91 applications (68) are submitted by mail, and the rest are submitted electronically. While there is de minimis or no costs for electronic submissions, MSHA estimates that costs to send an application by certified mail is \$20 per application. Assuming that the operator submits each of the permit applications by certified mail, the operators will incur additional transmittal costs of:

\$20 per certified mail package x 68 applications = **\$1,360**.

Question 13 Total
Burden Costs = \$1,360

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.

On average, MSHA estimates it takes 16 hours to review an application and either issue or deny a permit. MSHA utilizes GS-12/13 Mining Engineers for such reviews. The weighted average salary is estimated to be \$55.83 per hour². Thus, the cost for MSHA Mining Engineers to review 91 applications is:

² Hourly wage rate developed from Office of Personnel Management (OPM) September 2015 FedScope employment cube, <http://www.fedscope.opm.gov/>. Average annual salary of \$81,520 for a GS12 mining engineer and \$96,376 for a GS13 mining engineer obtained from DOL-MSHA employees. Data search qualifiers are: agency = DLMS, occupation = 0880 mining engineer, 32 mining engineers of which 26 are at the GS-12 level and 6 are at the GS13 level. In order to include the cost of benefits, the average annual salary was multiplied by a benefit scaler of 1.382. $\$55.83 = (((\$81,520 \times 26/32) + (\$96,376 \times 6/32)) \times 1.382) \div 2,087$ annual hrs.

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91 applications x 16 hours/application x \$55.83 per hr. = **\$81,288.**

Question 14 Total
Costs to Government = \$81,288

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

MSHA estimates that the annual number of permit applications will increase from 70 to 91, which increases burden hours from 385 to 501, responses from 70 to 91, and estimated annual costs from \$1,060 to \$1,360.

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.

There are no plans to publish information received from 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 MSHA forms on which to display the expiration date.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no certification exceptions identified with this information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

There is no statistical methodology involved in this collection.