

SUPPORTING STATEMENT

Information Collection Title: Independent Contractor Registration and Identification

Provision(s)

30 CFR 45.3 (a) Identification of independent contractors.
30 CFR 45.4(a) and (b) Independent contractor register.

Collection Instrument(s): MSHA Form 7000-52, Contractor Identification (ID) Request

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. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

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 or other mines.

Independent contractors (contractors) perform services or construction at a mine. They may be engaged in virtually any type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns.

Independent contractors vary in size, the type of work performed, and the time spent working at mine sites. Some contractors work only at mines, others may work one time at a mine and never return to MSHA jurisdiction. Contractors may also move from mine to mine or may be present at several mines at once.

The work performed can pose serious dangers to contractors' employees. From January 1, 2001 through June 30, 2014, 746 workers were fatally injured in mining accidents; 163 of those (or nearly 22%) were employed by independent contractors.

According to Section 3(d) of the Federal Mine Safety and Health Act of 1977 (Mine Act), an independent contractor is a mine operator: "*operator* means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine...."

Title 30 CFR part 45, *Independent Contractors*, sets forth information requirements and procedures for independent contractors to obtain a MSHA identification number and procedures for service of documents upon independent contractors. The information collections in this information collection request support the appropriate assessment of fines for violations by independent contractors and the deterrent effect of MSHA enforcement actions on independent contractors.

Section 45.3, *Identification of independent contractor*, provides that independent contractors may voluntarily obtain a permanent identification number by submitting to MSHA their trade name, business address, telephone number, an estimate of the annual hours worked by the contractor on mine property for the previous calendar year, and the address of record for service of documents upon the contractor.

MSHA assigns an identification number (IN) to an independent contractor if the contractor requests one or, if not requested, the Agency issues an IN the first time the contractor is cited for a violation of either a mandatory standard or the Mine Act.

Section 45.4, *Independent contractor register* has two provisions for collecting information:

(a) requires that each independent contractor provide the production-operator in writing the trade name, business address, and telephone number; a description and location at the mine where the work is to be performed; MSHA identification number, if any; and the contractor's business address of record.

(b) requires the mine operator to maintain certain information concerning each independent contractor at the mine (Section 45.4(a)). This information is required to be provided to the mine operator by the independent contractor. MSHA relies on this information for inspection and enforcement purposes and it must be made available by the mine operator to any MSHA inspector upon request.

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.

MSHA uses the information from these records to determine the appropriate responsibility for compliance with safety and health standards and to be able to serve documents to the appropriate entity, the independent contractor, or the production-operator. The information collected is reviewed by MSHA inspectors during mandatory inspections which are required four times a year at underground mines and twice a year at surface operations.

MSHA uses the information to issue a permanent MSHA identification number to a contractor. This number allows MSHA to keep track of a contractor's violation history so civil penalties can be assessed for violations of the Mine Act and mandatory health and safety standards.

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.

Contractors who wish to apply for ID numbers must use the electronic MSHA Form 7000-52 found on MSHA's Website, <http://www.msha.gov/forms/elawsforms/7000-52.htm>. This form may be completed on the website and submitted electronically or the form can be printed, filled out, and mailed in. Completing the form electronically is the same time burden as completing a printed copy and mailing it in.

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.

Records pertain to specific independent contractors performing work at individual mines; there is neither similar nor duplicate information available.

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

MSHA's enforcement policies are applied uniformly to production operators and independent contractors, regardless of size. Section 45.3, however, was designed with small businesses in mind by making the application for an identification number voluntary. This information collection does not have a significant economic 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.

Section 45.4(b) requires the mine operator to maintain certain information about each independent contractor working at the mine. Less frequent recordkeeping would mean that necessary information on some independent contractors performing work at mines would not be available to MSHA inspectors during their inspections. This would not be consistent with the objectives of the Mine Act, i.e., to improve the health and safety of miners.

Independent contractors need only apply one time for an identification number.

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.**

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.

MSHA published a 60-day *Federal Register* notice on May 11, 2015 (80 FR 26953). 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 respondents.

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

The records are maintained by mine operators and reviewed by MSHA inspectors during routine inspections. There is no assurance of confidentiality provided to respondents.

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.**

Burden hour costs were calculated using the hourly wage rates below. These wage rates were calculated by taking the composite hourly wage rates, which combine wage rates for both underground and surface coal and metal and nonmetal (M/NM) mines, from the *U.S. Coal Mines Salaries, Wages, and Benefits – 2012 Survey Results*, InfoMine USA, Inc., and multiplying them by the 2013 Employment Cost Index (ECI) multiplier developed by the Bureau of Labor Statistics.

| | | | |
|----------------|---------|----------------|---------|
| M/NM Clerical: | \$28.57 | Coal Clerical: | \$29.16 |
| Coal Miner: | \$38.88 | | |
| M/NM Miner: | \$30.62 | | |

2014 # of mines updated to Qtr. 3 of FY-2014 (Total Respondents):

| | |
|-------------------|--------|
| Coal Surface: | 1,197 |
| Coal Underground: | 434 |
| M/NM Surface: | 11,801 |

M/NM Underground: 251
13,683

MSHA Form 7000-52, Contractor Identification (ID) Request : 30 CFR Section 45.3

The information for voluntary submittal to MSHA consists of four items: 1) trade name and business address; 2) an address of record for service of documents; 3) telephone number for contact during business hours; and 4) an estimate of the number of hours contractors work on mine property. In addition, the electronic form incorporates information required under 30 CFR 45.4. All of the above are readily available (company letterhead, invoice, etc.) and require little or no research by the contractor.

MSHA's records show that there were 2,296 identification numbers issued to independent contractors in 2013, as follows:

| | Coal | Metal- Nonmetal | Totals |
|-------------------------------|-------------|----------------------------|---------------|
| Contractors filing by mail | 210 | 965 | 1,175 |
| Contractors filing on-line | 308 | 813 | 1,121 |
| Total, new contractors | 518 | 1,778 | 2,296 |

MSHA estimates that it takes approximately 8 minutes (0.1333 hours) for a clerical person to complete the application for either mail or on-line filing to MSHA to obtain an identification number.

30 CFR Section 45.4(a)

MSHA estimates that there are approximately 6.5 contractors operating per mine. MSHA also estimates that it will take an employee of the contractor about 5 minutes (0.0833 hours) to comply with this standard and provide the required information to the mine operator. These employees earn typical miner's wages of \$38.88 per hour at coal mines and \$30.62 per hour at M/NM mines.

30 CFR Section 45.4(b)

MSHA estimates that it takes a clerical employee, earning \$29.16 per hour at coal mines and \$28.57 at M/NM mines, 8 minutes (0.1333 hours) to maintain the required information.

| Estimated Annualized Burden Hours and Costs | | | | | | | | |
|---|---|---------------------------|--|--|--|---|------------------------------|---|
| (a) Type of Respondent as Listed in OMB 83-I | (b) Standard/ Data Collection Activity/ Form | (c) No. of Respondents | (d) Frequency of responses per Respondent | (e) Total No. of Responses (rounded to whole numbers) (c x d) | (f) Avg. Burden per Response (in hours/ to the 4 th decimal) | (g) Total Annual Burden (in hours/ rounded to whole numbers) (e x f) | (h) Avg. Hourly Wage Rate | (i) Total Annual Respondent Cost (g x h) |
| Business or other for-profit (Coal) | MSHA Form 7000-52 | 518 | 1 | 518 | .1333 hours (8 minutes) | 69 hours | \$29.16 | \$2,012 |
| Business or other for-profit (M/NM) | MSHA Form 7000-52 | 1,778 | 1 | 1,778 | .1333 hours (8 minutes) | 237 hours | \$28.57 | \$6,771 |
| SUBTOTAL | MSHA Form 7000-52 | 2,296 | 1 | 2,296 | .1333 hours (8 minutes) | 306 hours | | |
| Business or other for-profit (Coal) | 30 CFR 45.4(a) | 1,631 | 6.5 | 10,602 | .0833 hours (5 minutes) | 883 hours | \$38.88 | \$34,331 |
| Business or other for-profit (M/NM) | 30 CFR 45.4(a) | 12,052 | 6.5 | 78,338 | .0833 hours (5 minutes) | 6,526 hours | \$30.62 | \$199,826 |
| SUBTOTAL | 30 CFR 45.4(a) | 13,683 | 6.5 | 88,940 | .0833 hours (5 minutes) | 7,409 hours | | |
| Business or other for-profit (Coal) | 30 CFR 45.4(b) | 1,631 | 1 | 1,631 | .1333 hours (8 minutes) | 217 hours | \$29.16 | \$6,328 |
| Business or other for-profit (M/NM) | 30 CFR 45.4(b) | 12,052 | 1 | 12,052 | .1333 hours (8 minutes) | 1,607 hours | \$28.57 | \$45,912 |
| SUBTOTAL | 30 CFR 45.4(b) | 13,683 | 1 | 13,683 | .1333 hours (8 minutes) | 1,824 hours | | |

| | | | | | | | | |
|-------|--|--------------------------------------|--|---------|--|-------------|--|-----------|
| TOTAL | | 13,683 unique respon- dents | | 104,919 | | 9,539 hours | | \$295,180 |
|-------|--|--------------------------------------|--|---------|--|-------------|--|-----------|

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.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

MSHA estimates postage costs for those contractors who choose to mail their information to MSHA as follows:

$$1,175 \text{ written requests} \times \$0.49 \text{ postage} = \$576$$

There is no postage costs associated with on-line filing or identification numbers being

assigned as a result of citations being issued by MSHA inspectors.

Annual Cost Burden to Respondents or Record-keepers

| Standard/ Data Collection Activity/ Instrument | Annual Capital Start-Up Cost (investments in overhead, equipment and other one-time expenditures) | Annual Operations and Maintenance Cost (such as recordkeeping, technical/profess- sional services, etc.) | Annual Non- Labor Cost (expenditures on training, travel and other resources) | Total Annual Cost to Respondents |
|---|---|--|---|---|
| MSHA Form 7000-52 | 0 | \$576.00 | 0 | \$576.00 |
| Total | 0 | \$576.00 | 0 | \$576.00 |

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

No federal inspection costs have been associated specifically for this information collection. The review/inspection of independent contractors working on mine property is just one aspect of an annual inspection and costs associated with processing MSHA Form 7000-52 that are received by mail are de minimis. Under Section 103(a) of the Mine Act, complete inspections are required at least four times a year for underground mines and at least twice a year for surface operations.

However, if during an inspection a contractor is cited for a violation of safety or health regulations, or the Mine Act, the contractor must obtain an identification number. The cost to the Government to assign an identification number is estimated to be negligible.

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

Respondents: There has been an increase in respondents of 438 (from 13,245 to 13,683). This is due to an increase in the number of M/NM mines.

Responses: There has been an increase in responses of 3,217 (from 101,702 to 104,919).

Hours: There has been an increase of 294 hours (9,245 to 9,539). This increase is due to the increase in the number of respondents and responses.

Costs: There has been an increase of \$31 (from \$545 to \$576). This increase is due to a slight increase in the cost of postage.

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.

MSHA is not seeking approval to not display the expiration date for OMB approval of this information collection.

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

This information collection does not employ statistical methods.

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

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

* * *

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine;

* * *

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

Sec. 103.

* * *

(h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

* * *

30 CFR Part 45--INDEPENDENT CONTRACTORS

Section 45.3 Identification of independent contractors.

(a) Any independent contractor may obtain a permanent MSHA identification number. To obtain an identification number, an independent contractor shall submit to the District Manager in writing the following information:

- (1) The trade name and business address of the independent contractor;
- (2) An address of record for service of documents;
- (3) A telephone number at which the independent contractor can be contacted during regular business hours; and
- (4) The estimated annual hours worked on mine property by the independent contractor in the previous calendar year, or in the instance of a business operating less than one full calendar year, prorated to an annual basis.

Section 45.4 Independent contractor register.

(a) Each independent contractor shall provide the production-operator in writing the following information:

- (1) The independent contractor's trade name, business address and business telephone number;
- (2) A description of the nature of the work to be performed by the independent contractor and where at the mine the work is to be performed;
- (3) The independent contractor's MSHA identification number, if any; and
- (4) The independent contractor's address of record for service of citations, or other documents involving the independent contractor.

(b) Each production-operator shall maintain in writing at the mine the information required by paragraph (a) of this section for each independent contractor at the mine. The production-operator shall make this information available to any authorized representative of the Secretary upon request.

* * *