

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 of Labor (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 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 the number of employees, the type of work performed, and the time spent working at mine sites. Some independent contractors work only at mines, others may work one time at a mine and never return to MSHA jurisdiction. Independent 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 independent contractors' employees. From January 1, 2015 through December 31, 2017, 82 workers were fatally injured in mining accidents; 15 of those (or 18 percent) were employed by independent contractors.

Section 3(d) of the Federal Mine Safety and Health Act of 1977 (Mine Act) states that 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 an 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 violations by 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 independent contractor on mine property for the previous calendar year, and the address of record for service of documents upon the independent 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 independent 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:

Section 45.4(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 independent contractor's business address of record.

Section 45.4(b) requires the mine operator to maintain certain information, as required by section 45.4(a), concerning each independent contractor at the mine. 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, either the independent contractor or the production-operator. MSHA inspectors review the information collected during mandatory inspections that are required four times a year at underground mines and twice a year at surface mines.

MSHA uses the information to issue a permanent MSHA identification number to an independent contractor. This number allows MSHA to keep track of an independent 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.

Independent contractors who 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. However, section 45.3 considers small businesses 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 apply only 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 July 2, 2018 (83 FR 30982). MSHA received no public 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.**

Annual burden hours and related costs calculations is shown below. MSHA used data from the Occupational Employment Statistics (OES) published by the Bureau of Labor

Statistics (BLS) for hourly wage rates¹ and adjusted the rates for benefits² and wage inflation³.

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. The required information is readily available (company letterhead, invoice, etc.) and requires little or no research by the contractor.

MSHA's records show that there were 2,411 identification numbers issued to independent contractors in 2017, as follows:

Type of Response	Coal	Metal-Nonmetal	Totals
Contractors filing by mail	160	1,095	1,255
Contractors filing online	234	922	1,156
Total, new contractors	394	2,017	2,411

MSHA estimates that it takes approximately 8 minutes for a clerical person earning⁴ \$29.78 to complete the application for either mail or online filing to MSHA to obtain an identification number.

1 Options for obtaining OES data are available at item “E3. How to get OES data. What are the different ways to obtain OES estimates from this website?” at https://www.bls.gov/oes/oes_ques.htm.

2 The benefit-scaler comes from BLS Employer Costs for Employee Compensation access by menu <http://www.bls.gov/data/> or directly with <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. The data series CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, is divided by 100 to convert to a decimal value. MSHA used the latest 4-quarter moving average 2016Qtr4-2017Qtr3 to determine that 32.9 percent of total loaded wages are benefits. MSHA computes the scaling factor with a number of detailed calculations but it may be approximated with the formula and values $1 + (\text{benefit percentage}/(1-\text{benefit percentage})) = 1 + (.329/(1-.329)) = 1.49$.

3 Wage inflation is the change in Series ID: CIS2020000405000I; Seasonally adjusted; Series Title: Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index. (<https://data.bls.gov/cgi-bin/srgate>; Qtr 4 2017/Qtr 2 2016).

4 For the contractor clerical worker hourly wage rate, MSHA used the employment weighted mean hourly wage from the OES May 2016 survey, for 10 occupations from Standard Occupational Classification (SOC) major group codes 43 and NAICS 213100 Support Activities for Mining. The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$29.78 ($\$19.20 \times 1.49 \times 1.041$).

Respondents	= 2,411 contractors
Burden Responses	
1 response/contractor x 2411 contractors	= 2,411 responses
Burden Hours	
2,411 responses x 5 minutes	= 201 hours
Burden Costs	
201 hours x \$29.78 per hour	= \$5,986

30 CFR Section 45.4(a)

In calendar year (CY) 2017, 7,925 contractors reported hours for their employees working at mines. MSHA estimates that on average, contractor work at mines will result in approximately 6.5 reporting instances per mine each year. In CY2017, there were 13,015 mines⁵. MSHA also estimates that it will take an employee of the contractor about 5 minutes to comply with this standard and provide the required information to the mine operators. On average, these contractor employees earn wages of \$36.66 per hour⁶.

Respondents	= 7,925 contractors
Burden Responses	
6.5 response/mine x 13,015 mines	= 84,598 responses
Burden Hours	
84,598 responses x 5 minutes/response	= 7,050 hours
Burden Costs	
7,050 hours x \$36.66 per hour	= \$258,453

30 CFR Section 45.4(b)

Section 45.4(b) requires the mine operator to maintain certain information, as required by section 45.4(a), concerning each independent contractor at the mine. 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

⁵ MSHA at a Glance https://www.msha.gov/sites/default/files/Data_Reports/at-a-glance-legacy-2.12.2018.pdf

⁶ For the contract miner hourly wage rate, MSHA used the employment weighted mean hourly wage from the OES May 2016 survey, for 22 occupations from Standard Occupational Classification (SOC) major group codes 47 and NAICS 213100 Support Activities for Mining. The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$36.66 (\$23.63 x 1.49 x 1.041).

and it must be made available by the mine operator to any MSHA inspector upon request.

The mine operator will have to maintain a record of the information each time the contractor submits information. MSHA estimates that, on average, it takes a mine clerical employee earning \$29.28 per hour⁷ 8 minutes to maintain the required information provided by the contractor.

Respondents = 13,015 mines

Burden Responses
 6.5 response/mine x 13,015 mines = 84,598 responses
 (matches contractor information in
 30 CFR Section 45.4(a) above)

Burden Hours
 84,598 responses x 8 minutes/response = 11,280 hours

Burden Costs
 11,280 hours x \$29.28 per hour = \$330,278

Summary of Question 12 Burden

Type of Respondent	CFR Section or Form	Respondents	Responses	Burden Hours	Burden Costs
Business or other for-profit	MSHA Form 7000-52	2,411	2,411	201	\$5,986

⁷ For the mine clerical worker hourly wage rate, MSHA used the employment weighted mean hourly wage from the OES May 2016 survey, for 10 occupations from Standard Occupational Classification (SOC) major group codes 43 and NAICS 212000 Mining (not gas and oil). The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$29.28 (\$18.88 x 1.49 x 1.041).

Business or other for-profit	30 CFR 45.4(a)	7,925	84,598	7,050	\$258,453
Business or other for-profit	30 CFR 45.4(b)	13,015	84,598	11,280	\$330,278
	TOTAL	*22,728	171,607	18,531	\$594,717

*Total unique respondents in the Respondents column is not sum of rows as at least 623 contractors report under more than one section requirement.

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:

$$1,255 \text{ written requests} \times \$0.50 \text{ postage} = \$628$$

There is no postage costs associated with online 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/professional services, etc.)	Annual Non-Labor Cost (expenditures on training, travel and other resources)	Total Annual Cost to Respondents
MSHA Form 7000-52	0	\$628.00	0	\$628.00
Total	0	\$628.00	0	\$628.00

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 9,045 (from 13,683 to 22,728). This is due primarily due to a correction in the methodology of calculating the number of contractors as respondents.

Responses: There has been an increase in responses of 66,688 (from 104,919 to 171,607). This is due to the increase in respondents.

Hours: There has been an increase of 8,892 burden hours (from 9,539 to 18,531). This increase is due to the increase in respondents and responses.

Costs: There has been an increase of \$52 (from \$576 to \$628). This increase is due primarily 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.

* * *