

Supporting Statement
Ground Control for Surface Coal Mines and Surface Work Areas of
Underground Coal Mines

OMB Control	30 CFR Citation	Title
1219-0026	77.1000-1	Filing of plan required by 77.1000 – Highwalls, pits and spoil banks; plans

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 103(h) requires that every operator of a coal or other mine establish and maintain records, make reports, and provide required information to the Secretary of Labor (Secretary). 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.

Section 103(a) of the Mine Act requires that frequent inspections and investigations in coal or other mines shall be made each year for the purposes of, among other things,

gathering information with respect to mandatory health or safety standards and determining whether an imminent danger exists.

Each operator of a surface coal mine is required under 30 CFR 77.1000 to establish and follow a ground control plan for highwalls, pits, and spoil banks that is consistent with prudent engineering design and which will ensure safe working conditions. The mine operator is required by section 77.1000-1 to file the ground control plan with the appropriate District Manager. The mining methods employed by the operator are selected to ensure highwall, pit, and spoil bank stability. In the event of a highwall failure or material dislodgment, there may be very little time to escape possible injury; therefore, preventive measures must be taken. Each plan is based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. The plan is used to show how the mine operator will maintain safe working conditions around the highwalls, pits, and spoil banks. Each plan is reviewed by MSHA to ensure that highwalls, pits, and spoil banks are maintained in a safe condition through the use of sound engineering design.

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

The information contained in ground control plans is used by MSHA to ensure that mine operators are maintaining the highwalls, pits, and spoil banks of surface coal mines so that a safe working environment is provided for mine employees, management, and others who visit the mine property.

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. To comply with the Government Paperwork Elimination Act, mine operators may develop ground control plans using computer-aided design (CAD) drawings and retain the records using whatever method they choose, including utilizing computer technology. However, the plans are usually mailed because the plans are not conducive to electronic transmission.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

MSHA knows of no other federal, state, or local agency that has a similar paperwork requirement relating to ground control that would duplicate this requirement. All other agencies that inspect coal mines accept and use the ground control plans required by MSHA.

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

This information does not have a significant impact on small businesses or other small entities. However, MSHA has made available on our web-site at <http://www.msha.gov/> various sources of information, such as “Technical Assistance,” “Best Practices,” and an “Accident Prevention” site. To assist with compliance, these provide tips and general information on a number of various topics; including a Program Information Bulletin No. P11-02 - Filing of Ground Control Plans for Surface Coal Mines; a Template for Submittal and Evaluation of Ground Control Plans; and Guidelines for Submittal and Evaluation of Ground Control Plans.

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 the plans are not submitted, MSHA would not be able to effectively determine whether mine operators are taking the appropriate actions to maintain stable highwalls, pits, and spoil banks in order to protect the health and safety of miners. The Mine Act requires mine operators to provide a safe and healthful work environment for employees.

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.**

This collection of information is consistent with the requirements 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.

In accordance with 5 CFR 1320.8(d), MSHA will publish the proposed information collection requirements in the *Federal Register*, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments.

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 identified by this collection.

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

No records requiring confidentiality are required.

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 under Item 13.**

Hour Burden

Based on mine plan approval data from calendar year 2017 to date, MSHA estimates that it will receive approximately 157 new ground control plans and 113 revised plans per year (270 respondents). MSHA estimates that a mine engineer will take approximately 8 hours to develop a new ground control plan and approximately 5 hours to draft and submit a revised plan for approval.

$$\begin{array}{r} 157 \text{ new plans} \times 8 \text{ hours/plan} \\ 113 \text{ revised plans} \times 5 \text{ hours/plan} \end{array} \quad \begin{array}{r} = 1,256 \text{ hours} \\ = \underline{565 \text{ hours}} \\ 1,821 \text{ hours} \end{array}$$

MSHA estimates that approximately 6 minutes of clerical time is required for each plan for copying, filing, mailing, etc.

$$270 \text{ plans} \times 6 \text{ minutes/plan} = 27 \text{ hours}$$

Total Burden Hours = 1,848 hours

Hour Burden Cost

MSHA used data from the May 2017 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.

1,821 hours x \$69.34 per hour (estimated salary of a mining engineer⁴) = \$126,266

The hour burden costs associated with copying, filing, and mailing new and revised ground control plans is as follows:

27 hours x \$28.57 per hour (estimated salary of a clerical worker⁵) = \$771

Total Burden Hour Cost = \$127,037

Summary of Burden Hours and Costs

Section	Annual Respondents	Annual Responses	Annual Burden Hours	Annual Burden Costs
77.1000-1: Filing of plan required by 77.1000 – Highwalls, pits, and spoil banks; plans	270	270	1,848	\$127,037
Total	270	270	1,848	\$127,037

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 2017Qtr3-2018Qtr2 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 2 2018/Qtr 2 2017=1.027).

⁴ Mining engineer wage is the employment weighted average for Standard Occupational Classification Codes (SOC) 11-9041 and 17-2151 from the BLS May 2017 OES data for NAICS 212100 – Coal Mining. Weighted average rate $\$69.34 = \$45.31 \times 1.49 \text{ benefit adjustment} \times 1.027 \text{ inflation adjustment}$.

⁵ Clerical worker wage is the employment weighted average for Standard Occupational Classification Codes (SOC) 43-5061, 43-9061, and 17-3029 from the BLS May 2017 OES data for NAICS 212100 – Coal Mining. Weighted average rate $\$28.57 = \$18.61 \times 1.49 \text{ benefit adjustment} \times 1.027 \text{ inflation adjustment}$.

TOTAL BURDEN HOURS = 1,848

TOTAL COST OF BURDEN HOURS = \$127,037

TOTAL RESPONSES = 270

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 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 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.**

MSHA estimates that the only cost associated with submitting ground control plans is the cost of copying and mailing the plans. This cost is calculated as follows:

270 plans and revisions x [(6 pages x \$0.15/page) + \$1.00 postage]	=	\$513
Total Burden Cost	=	\$513

14. Provide estimates of annualized costs 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

MSHA estimates that approximately 157 new ground control plans and 113 revisions to existing ground control plans (270 total plans) will be filed each year and will require a Safety Specialist, GS-12, 30 minutes to review. As of March 2018, the average wage of a Safety Specialist, GS-12, is \$56.34 per hour including benefits.⁶

270 plans x 30 minutes hours x \$56.34/hour = \$7,606

Annualized Cost to the Federal Government = \$7,606

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

Respondents: There has been an increase of 130 respondents (from 140 to 270) due to a change in the number of surface coal mines.

Responses: There has been an increase of 130 responses (from 140 to 270) due to an increase in the number of respondents in the form of surface coal mines.

Burden Hours: There has been an increase of 837 hours (from 1,011 to 1,848). The increase in burden hours is due to the increase in the number of surface coal mines and responses.

Annual Cost Burden: There has been an increase of \$247 (from \$266 to \$513). The increase in cost burden is mainly due to the increase in responses.

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.

The results from the information gathered from this collection will not be published.

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.

⁶ The wage rates shown here come from the Office of Personnel Management (OPM) March 2018 data cube, <http://www.fedscope.opm.gov/>. Average salary was obtained for the appropriate grade and occupation for DOL-MSHA employees. In order to include the cost of benefits, this annual average salary was multiplied by a benefits scaler of 1.392 computed from MSHA's 2019 budget submission. The final hourly wage rate was derived by dividing the adjusted annual average salary by 2,087 hours (\$84,469 x 1.392 /2,087 = \$56.34).

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MSHA has no forms associated with this collection of information on which to display an 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

As statistical analysis is not required by the regulation, questions 1 through 5 do not apply.

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

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 103. (a) Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this Act, and his experience under this Act and other health and safety laws. For the purpose of making any inspection or investigation under this Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.

* * *

Section 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.

Part 77 – Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of
Underground Coal Mines
30 CFR Subpart K – Ground Control

Section 77.1000 - Highwalls, pits and spoil banks; plans.

Each operator shall establish and follow a ground control plan for the safe control of all highwalls, pits, and spoil banks to be developed after June 30, 1971, which shall be consistent with prudent engineering design and will insure safe working conditions. The mining methods employed by the operator shall be selected to insure highwall and spoil bank stability.

Section 77.1000-1 Filing of plan.

The operator shall file a copy of such plan, and revisions thereof, with the MSHA Coal Mine Safety and Health district office for the district in which the mine is located, and shall identify the name and location of the mine; the Mine Safety and Health Administration identification number if known; and the name and address of the mine operator.