

Supporting Statement for Paperwork Reduction Act Submissions

OBM Control Number: 1219-0051

Title: Escape and Evacuation Plans for Surface Coal Mines, Surface Facilities and Surface Work Areas of Underground Coal Mines

Form Number(s): None

30 CFR Section: 77.1101

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 and metal and nonmetal mines.

Section 77.1101(a) requires operators of surface coal mines, including surface facilities, and surface work areas of underground coal mines to establish and keep current a specific escape and evacuation plan to be followed in the event of a fire.

Section 77.1101(b) requires that all employees be instructed in current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire. The training and record keeping requirements associated with this standard are addressed under OMB No. 1219-0009 (Training Plan Regulations).

Section 77.1101(c) requires that escape and evacuation plans include the designation and proper maintenance of adequate means for exiting areas where persons are required to work or travel including buildings, equipment, and in areas where persons normally congregate during the work shift.

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 escape and evacuation plan is prepared by the mine operator and is used by mines, MSHA, and persons involved in rescue and recovery. The plan is used to instruct employees in the proper methods of exiting structures in the event of a fire. MSHA inspection personnel use the plan to determine compliance with the standard requiring a means of escape and evacuation be established and the requirement that employees be instructed in the procedures to follow should a fire occur.

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 information technology has been identified that would reduce the burden; however, in order to comply with the Government Paperwork Elimination Act, Pub. L. No. 105-277, mine operators may develop escape and evacuation plans using computer-aided design (CAD) drawings and retain the records in whatever method they choose, either in paper or electronic copies.

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.

No similar or duplicate information exists. Escape and evacuation plans are developed for individual mines and are unique to the mine. Where equipment manufacturers' recommendations, engineering construction drawings, architectural design drawings

(which reflect building code requirements such as sprinkler systems, exit signs, fire alarms, firehose stations, restricted occupancy, etc.) or other similar information exists, such information may become an essential part of the required plan.

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.

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.

Persons working at surface installations such as preparation plants, drawoff tunnels, slopes, and other buildings must be trained on how to safely escape and evacuate these sites in case of a fire hazard. They must also be familiar with the means of escape. Reducing the frequency of, or eliminating preparation of the mandatory escape and evacuation plan, prior to commencing operations, or to remove the requirement to maintain the plan current with mine conditions, would eliminate an essential training tool and would expose miners to unnecessary confusion and risk of injury or death should a fire occur in or at their work location. An escape and evacuation plan may be developed only once for a specific surface coal mine, surface facilities, or surface work area of an underground coal mine. Therefore a plan, once developed, may only be revised if new equipment, additional buildings or other significant changes occur. Changes in mine ownership do not result in a need for developing new surface escape and evacuation plans except where the new owner makes changes to the mine's surface facilities or mining equipment.

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.

While there is no specific requirement that escape and evacuation plans be kept for more than three years, 30 CFR 77.1101 requires coal mine operators to establish and keep current such plans and to instruct all employees on the current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire. This collection of information is otherwise consistent with the guidelines in 5 CFR 1320.5, and does not contain any requirements for respondents to report more than quarterly.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

MSHA published a 60-day Federal Register notice on October 26, 2018 (83 FR 54145). 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 payments or gifts to 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.

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 under Item 13.**

From 2015 through 2017, the average annual number of surface coal mines, surface facilities, and surface work areas of underground mines affected by this standard was 928. MSHA estimated that there were approximately 25 new surface coal mines, surface coal facilities, and surface work areas of underground mines opened annually during the same three years. MSHA estimates that approximately 1 percent (10 mines) of existing surface coal mines, surface coal facilities, and surface work areas of underground mines will need to revise their escape and evacuation plans annually. MSHA estimates that approximately 25 new surface coal mines, surface coal facilities, and surface work areas of underground mines will open annually.

Annual burden hours and related costs calculations are shown below. 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 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.

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A coal mine supervisor earning \$67.91 per hour⁴ will take approximately 4 hours to prepare a new escape and evacuation plan and approximately 2 hours to revise an existing plan.

Hour Burden

25 new plans x 4 hours per plan	=	100 hours
<u>10 revised plans x 2 hours per plan</u>	=	<u>20 hours</u>
Total Hour Burden	=	120 hours

Hour Burden Cost

120 hours x \$67.91 per hour	=	\$8,149
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MSHA estimates that it will take a clerical person earning \$27.25 per hour⁵ approximately 1 hour to type and file a new escape and evacuation plan, and approximately 30 minutes (0.5 hour) to type and file a revised plan.

Hour Burden

25 new plans x 1 hour per plan	=	25 hours
<u>10 revised plans x 0.5 hour per plan</u>	=	<u>5 hours</u>
Total Hour Burden	=	30 hours

Hour Burden Cost

30 hours x \$27.25 per hour	=	\$817
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Total Hour Burden = 150 hours
Total Hour Burden Cost = \$8,966

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 2017Qtr1-2017Qtr4 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 1 2018/Qtr 2 2017).

⁴ For coal mines, the supervisory wage is the employment weighted average of the rates for 8 supervisor and manager Occupational Codes from the BLS May 2017 OES data for NAICS codes 212100, Coal Mining. Weighted average rate \$67.91 = \$44.73 x 1.49 benefit adjustment x 1.019 inflation adjustment.

⁵ For coal mines, the clerical wage is the employment weighted average of the rates for 4 clerical Occupational Codes from the BLS May 2017 OES data for NAICS codes 212100, Coal Mining. Weighted average rate \$27.25 = \$17.95 x 1.49 benefit adjustment x 1.019 inflation adjustment.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

*** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

*** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

*** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

MSHA does not anticipate that mine operators will incur any costs other than those described in Item 12.

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.

Because the review of escape and evacuation plans is just one aspect of the inspections required under section 103(a) of the Mine Act, MSHA believes that this burden is minimal and has assigned no federal cost burden for this specific information collection.

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

Respondents: There has been a decrease of 17 respondents (52 to 35). The decrease is the result of a decrease in the estimated number of new and existing surface coal mines, surface facilities, and surface work areas of underground mines affected by the standard.

Responses: There has been a decrease of 17 responses (52 to 35). The decrease is the result of a decrease in the estimated number of new and existing surface coal mines, surface facilities, and surface work areas of underground mines affected by the standard.

Hours: There has been a decrease of 85 burden hours (235 to 150). The hour burden has decreased due to the decrease in the estimated number of new and existing surface coal mines, surface facilities, and surface work areas of underground coal mines requiring new or revised plans.

Cost: There has been no change in the costs; they remain at \$0.

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 has no plans to publish the information obtained through 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 either display or not display the expiration date for OMB approval of this information collection. There are no forms associated with this 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.

There is no statistical methodology involved in this collection.

Federal Mine Safety & Health Act of 1977 (the Mine Act)

MANDATORY SAFETY AND HEALTH STANDARDS

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), 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.

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendation of an advisory committee appointed under section 102(c). The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within 60 days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than 180 days. When the Secretary receives a recommendation, accompanied by appropriate criteria, from the National Institute for Occupational Safety and Health that a rule be promulgated, modified, or revoked, the Secretary must, within 60 days after receipt thereof, refer such recommendation to an advisory committee pursuant to this paragraph, or publish such as a proposed rule pursuant to paragraph (2), or publish in the Federal Register his determination not to do so, and his reasons therefor. The Secretary shall be required to request the recommendations of an advisory committee appointed under section 102(c) if the rule to be promulgated is, in the discretion of the Secretary which shall be final, new in effect or application and has significant economic impact.

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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. ...

(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.

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30 CFR PART 77 Subpart L – Fire Protection

Section 77.1101 Escape and evacuation; plan.

- (a) Before September 30, 1971, each operator of a mine shall establish and keep current a specific escape and evacuation plan to be followed in the event of a fire.
- (b) All employees shall be instructed on current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire.
- (c) Plans for escape and evacuation shall include the designation and proper maintenance of adequate means for exit from all areas where persons are required to work or travel including buildings and equipment and in areas where persons normally congregate during the work shift.