

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

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

Collection Instruments(s): Operators may develop ground control plans using any method they choose. Suggested, non-required, District 2 guidelines and templates:

- 1) Template for Submittal and Evaluation of Ground Control Plans
- 2) Guidelines for Submittal and Evaluation of Ground Control Plans

This Information Collection Request (ICR) seeks to extend, without change, a currently approved information collection.

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(a), 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 implementation 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 properly maintaining the highwalls, pits, and spoil banks of surface coal mines so that a safe 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 sent by postal mail, because they are not conducive to electronic transmission while the initial non-required templates and guidelines for use can be emailed.

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 various topics including: 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 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.

MSHA published a 60-day *Federal Register* notice on January 26, 2022 (87 FR 4047). 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 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.

Operators are given no assurances of confidentiality; however, the ground control plans submitted are covered by the Privacy Act Systems of Records Notice, DOL/MSHA-1, Mine Safety and Health Administration Standardized Information System (MSIS) (81 FR 25766) published on April 29, 2016. Computerized and manual records are indexed by mine identification number. Computer safeguards are as described in the National Bureau of Standards Booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974." The records are stored in locked file cabinets and are accessible only to authorized personnel during working hours.

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.**

All information related to quantities and inspection rates are estimated by MSHA's Headquarters Enforcement Division based on field experience with different types of mining operations, sizes of mines, and the frequency of inspections dictated by statute. Mine operators provide MSHA Headquarters Enforcement Division the number of mines and employment, and from this information MSHA tracks the number of active and inactive mines and mine types throughout the United States.

Hour Burden

Based on mine plan approval data received from each MSHA district office for calendar year 2020, MSHA estimates that it will receive approximately 166 new ground control plans and 121 revised plans per year (287 respondents). MSHA estimates that a mine engineer earning \$71.28 per hour 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.

MSHA estimates that approximately 6 minutes of clerical time is required for each plan for copying, filing, mailing, etc. for a clerical worker earning \$33.44 per hour. The hour burden costs associated with copying, filing, and mailing new and revised ground control plans is detailed in the chart below. MSHA used data from the May 2020 Occupational Employment and

Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates¹ and adjusted the rates for benefits² and wage inflation³.

Estimated Annualized Respondent Cost and Hour Burden

Activity/ Section	No. of Respondents	No. of Responses Per Respondent	Total Responses	Average Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Monetized Value of Time
75.1732(d) (1) (New ground control plans)	166	1	166	8 h	1,328.00	\$71.28	\$94,659.84
(Revised ground control plans)	121	1	121	5 h	605.00	\$71.28	\$43,124.40
Clerical time for each plan for copying, filing, mailing, etc.	287	1	287	(6 min) 0.1 h	28.70	\$33.44	\$959.73
TOTAL	287*		287*		1,962 (rounded)		\$138,744 (rounded)

*Responses and respondents are not cumulative. Clerical responses are not counted as an additional response.

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).

¹ Options for obtaining OEWS data are available at item “E3. How to get OEWS data. What are the different ways to obtain OEWS 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 accessed by menu at <http://www.bls.gov/data/> or directly with <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. Insert the data series CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, which is divided by 100 to convert to a decimal value. MSHA used the latest 4-quarter moving average 2020Qtr3-2021Qtr2 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 2021/Qtr 2 2020=144.3/139.2=1.037).

*** 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:

287 plans and revisions x [(6 pages x \$0.15/page) + \$1.00 postage] = \$545.30

Rounded Total Burden Cost = \$545

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 166 new ground control plans and 121 revisions to existing ground control plans (287 total plans) will be filed each year and will require a Safety Specialist, GS-12, 30 minutes to review. As of June 2021, the average wage of a Safety Specialist, GS-12, is \$61.79 per hour including benefits.⁴

⁴ The wage rates shown here come from the Office of Personnel Management (OPM) June 2021 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 1.400 computed from MSHA's 2021 budget submission. The final hourly wage rate was derived by

287 plans x 30 minutes x \$61.79/hour = \$8,866.87

Annualized Cost to the Federal Government = \$8,867

15. Explain the reasons for any program changes or adjustments.

Respondents: There has been an increase of 17 respondents (from 270 to 287) due to an increase in the number of active surface coal mines.

Responses: There has been an increase of 17 responses (from 270 to 287) due to an increase in the number of respondents in the form of surface coal mines.

Burden Hours: There has been an increase of 114 hours (from 1,848 to 1,962). 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 \$32 in cost (from \$513 to \$545). The increase in cost burden is 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.

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.

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.

dividing the adjusted annual average salary by 2,087 hours ($\$92,116 \times 1.400 / 2,087 = \61.79).