

## **SUPPORTING STATEMENT**

### **Proposed Rule: Proximity Detection Systems for Continuous Mining Machines in Underground Coal Mines**

#### **30 CFR Part 75 (§ 75.1732) Mandatory Safety Standards Underground Coal Mines**

##### **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 of each regulation mandating or authorizing the collection of information.**

The Mine Safety and Health Administration (MSHA) is proposing a rule that would require coal mine operators to install proximity detection systems on continuous mining machines. The proposed requirements would strengthen the protection for miners by greatly minimizing the potential for pinning, crushing, or striking injuries while working near continuous mining machines. The proposed rule would cause information to be collected regarding: approval of mining products; training of miners; and the checking and examination of mining equipment. The circumstances and the legal or administrative requirements that necessitate information collection are further explained below.

Proposed § 75.1732(a) would require mine operators to equip continuous mining machines with an approved proximity detection system. Proximity detection systems and machines equipped with proximity detection systems must be approved by MSHA as permissible equipment under existing 30 CFR parts 18 or 36 regulations to help assure the equipment does not present an ignition hazard to miners. MSHA's approval can be obtained by either the machine manufacturer or the mine operator. MSHA anticipates that machine manufacturers would submit applications to allow all of their new and many of their older models to be equipped with proximity detection systems. In instances where the machine manufacturer is no longer in business or chooses not to seek approval, the mine operator has the option to apply for a field modification or a district field change to allow a specific machine to be equipped with a proximity detection system.

The Federal Mine Safety and Health Act of 1977 as amended, 30 U.S.C. § 801 et seq., (Mine Act), in sections 318(c) and 318(i), defines "permissible" to mean explosives or equipment including electrically operated, whether used at the face or not, in which the Secretary requires an approval plate, label, or other device to be attached. For this approval, the equipment must meet the Secretary's specifications for construction, maintenance, design, or other specifications as prescribed by MSHA to assure that the equipment will not cause a mine explosion or a mine fire.

Proposed § 75.1732(a) would require mine operators to equip continuous mining machines with a proximity detection system. Miners using a miner-wearable system component and operators of machines equipped with a proximity detection system would need new task training on a task in which they have had no previous experience under existing 30 CFR part 48. Mine operators are required to have an MSHA-approved plan containing programs for training new miners and training miners for new tasks. Mine operators must record and certify, upon a miner's completion of each MSHA approved training program, that the miner has received the specified training.

The Mine Act recognizes that education and training in the improvement of miner health and safety is an important element of federal efforts to make the nation's mines safer places in which to work. Section 115(a) of the Mine Act states that "each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary."

Proposed § 75.1732(d)(1) would require that at the completion of the check of the proximity detection system under proposed § 75.1732(c)(1), the certified person specified in existing § 75.100 would be required to certify by initials, date, and time that the check has been conducted. Defects found as a result of the check in proposed § 75.1732(c)(1), including corrective actions and date of corrective action, would be required to be recorded.

Making records of defects and corrective actions provides a history of the defects documented at the mine to alert miners, representatives of miners, mine management and MSHA of recurring problems. The certification under proposed paragraph (d)(1) is necessary to assure compliance and for miners on the section to confirm that the required check was made. Making records of defects and corrective actions provides a history of the defects documented at the mine to alert miners, representatives of miners, mine management and MSHA of recurring problems. MSHA and mine management could use the records to evaluate whether the same conditions or problems, if any, are recurring, and whether corrective measures are effective.

Proposed § 75.1732(d)(2) would require that defects found as a result of the check of miner-wearable components required under proposed § 75.1732(c)(2), including corrective actions and date of corrective action, would be required to be recorded.

Making records of defects and corrective actions provides a history of the defects documented at the mine to alert miners, representatives of miners, mine management and MSHA of recurring problems. MSHA and mine management could use the records to evaluate whether the same conditions or problems, if any, are recurring, and whether corrective measures are effective.

Proposed § 75.1732(d)(3) would require that at the completion of the examination under proposed § 75.1732(c)(3), the qualified person that would conduct the examination would be required to record and certify by signature and date that the examination was conducted. Defects, including corrective actions and date of corrective action, would be required to be recorded.

The certification would help assure compliance. Making records of defects and corrective actions provides a history of the defects documented at the mine to alert miners, representatives of miners, mine management and MSHA of recurring problems. MSHA and mine management could use the records to evaluate whether the same conditions or problems, if any, are recurring, and whether corrective measures are effective.

Proposed § 75.1732(d)(4) would require that a record be kept of personnel trained in the installation and maintenance of proximity detection systems under proposed § 75.1732(b)(6).

This record would help assure that persons assigned to install and perform maintenance on proximity detection systems were trained.

**2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. For revisions, extensions, and reinstatements of a currently approved collection, indicate the actual use the agency has made of the information received from the current collection.**

MSHA would use the information collected under parts 18 and 36 to assure that proximity detection systems do not present an ignition hazard. Continuous access to records of training required by proposed § 75.1732(d)(4) would help assure MSHA and miners that proximity detection systems are installed and maintained correctly. The records of checks, examinations, and the corrective actions taken to correct defects under proposed § 75.1732(d)(1), (d)(2), and (d)(3) would help assure MSHA and miners that the systems function properly. MSHA could use the information to help keep mine operators informed about system defects and to help determine compliance with the standard.

**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. Mine operators may apply for approvals and retain records in whatever method they choose, which may include using computer technology.

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

The proposed information collection requirements in this proposed rule: (1) applications to allow certain machines to be equipped with proximity detection systems; (2) certification that checks and exams of proximity detection systems have been conducted; (3) records of defects, including corrective actions and date of corrective action; and (4) records of personnel trained to install and maintain proximity detection systems would not be

duplicative of any existing MSHA requirements.

**5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (item 15 of OMB Form 83-I), describe the methods used to minimize burden.**

This information collection would not have a significant impact on small businesses or other small entities. However, MSHA makes available on its website various sources of information, such as “Technical Assistance,” “Best Practices,” and an “Accident Prevention” site which may aid small businesses and other small entities in complying with and reducing the burden associated with these standards. In addition, MSHA developed pocket safety calendars that small mine operators can use to record inspections, and sample inspection checklists are available on MSHA’s website for miners and mine operators to use in completing mobile equipment and workplace inspections.

If manufacturers make design changes to approved products, they must submit a new application to MSHA for approval. The Agency developed and implemented the Revised Approval Modification Program (RAMP) Application Procedure to assist manufacturers in obtaining new approvals for modified equipment designs under 30 CFR parts 18 and 36. The RAMP instructs approval-holders how to apply for MSHA acceptance of proposed changes to the design of their approved product.

**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.**

Reductions of these requirements could allow unsafe equipment to remain in operation and thereby jeopardize the safety of miners. Section 101(a)(9) of the Mine Act prohibits any regulatory action which would reduce the protection given miners by an existing standard.

**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 would be consistent with the guidelines 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 has decided not to provide payments 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.**

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 in Item 13 of OMB Form 83-I.**
- **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.**

Approximately 433 unique respondents (424 underground coal mine operators + 9 machine manufacturers) would respond to this collection of information.

The following calculations are based on the expected number of applications and the hours per response which represent the estimated time required by the manufacturer or mine operator to prepare and submit applications, which may include drawings and specifications, for approval and certification of their products.

Salary figures used are based on data obtained from the U.S. Coal Mine Salaries, Wages, & Benefits – 2009 Survey Results. Unless otherwise noted the hourly rate used in this answer is an engineer's hourly rate of \$84.70

**A. Proposed § 75.1732(a)**

Proposed § 75.1732(a) would require underground coal mine operators to equip place-changing continuous mining machines with a proximity detection system.

Proximity detection systems (PDS) taken into or used in by the last open crosscut of an entry or room of any underground coal mine must be approved under 30 CFR part 18, to ensure that the systems are permissible. The MSHA approval does not address the operational capabilities of the system.

In addition, mine operators would need to have MSHA approval to add the proximity detection systems to any machines taken into or used in by the last open crosscut of an entry or room of any underground coal mine. This can be accomplished through one of several options:

1. The machine manufacturer can submit a new approval request or a revised approval modification program (RAMP) application to add the system to their approved machine.
2. The mine operator can submit a field modification to the Approval and Certification Center (A&CC) to add a proximity detection system to the machine(s) they own.
3. The mine operator can submit a district field change request to the district office to add a proximity detection system to the machine(s) they own.

The different burdens for these options are explained below.

### **PDS Manufacturers' Approval Burden**

PDS manufacturers would seek to have their PDS approved as permissible equipment under 30 CFR part 18.

MSHA estimates that it would take a company engineer, earning \$84.70 an hour (including benefits), 65 hours to draft an application to the A&CC. MSHA projects that an average of 1 application would be submitted each year. MSHA's estimates of burden hours and related burden costs to PDS manufacturers are presented below.

#### Responses

Total responses= 1 application

#### Burden Hours

1 application x 65 hrs to draft the application = 65 hrs

#### Burden Costs

65 hrs. x \$84.70 wage rate = \$5,506

### **Machine Manufacturers' Approval Burden for Equipping PDS on Electric Machines**

PDS would need to be approved by MSHA as permissible to be equipped on an electrical powered mining machine taken into or used in by the last open crosscut of an entry or room of any coal mine. MSHA must approve the system on the machine under 30 CFR part 18. MSHA anticipates that machine manufacturers would submit applications to the A&CC, via a RAMP request, to allow all of their new and many of their older models to be equipped with proximity detection systems.

MSHA estimates that it would take a company engineer, earning \$84.70 an hour (including benefits), 20 hours to complete a RAMP request and submit it to the A&CC. MSHA projects that an average of 5 RAMP requests would be submitted each year. MSHA's estimates of the burden hours and related burden costs to machine manufacturers are

presented below.

Responses

Total responses= 5 RAMP requests

Burden Hours

5 RAMP requests x 20 hrs to complete the RAMP request = 100 hrs

Burden Costs

100 hrs. x \$84.70 wage rate = \$8,470

**Mine Operators' PDS Approval Burden for Equipping Electric Machines with PDS**

Machines equipped with PDS that are taken into or used in by the last open crosscut of an entry or room of any underground coal mine would need to be approved by MSHA as permissible equipment. MSHA's approval can be obtained by either the machine manufacturer or the mine operator. MSHA anticipates that machine manufacturers would submit applications to allow all of their new and many of their older models to be equipped with proximity detection systems. In instances where the machine manufacturer is no longer in business or chooses not to seek approval, the mine operator has the option to apply for a field modification or a district field change to allow a specific machine to be equipped with a proximity detection system.

In these cases, MSHA anticipates that mine operators would apply for a district field change in order to equip electrical machines with a proximity detection system. MSHA anticipates mine operators would choose to apply for a district field change because this is the more convenient and cost effective of the two options. Mine operators are required to notify MSHA's district office in writing when changes are made in accordance with 30 CFR part 18. A copy of all notifications would need to be maintained in the appropriate mine file.

MSHA estimates that it would take a supervisor, earning \$84.70 an hour, 21 minutes (0.35 hours) to draft a letter informing MSHA's district office when a mine would be equipping a machine/system with a PDS and mail the letter to MSHA's district office and keep one copy on file. MSHA projects that an average of 15 district field change requests would be submitted each year. MSHA's estimates of the burden hours and related burden costs to machine manufacturers are presented below.

Responses

Total responses= 15 district field change requests

Burden Hours

15 requests x 0.35 hrs to draft and submit the request = 5 hrs

Burden Costs

5 hrs x \$84.70 wage rate = \$424

## **Task Training**

### **PDS Training Plan Burden**

Existing § 48.3 requires underground coal mine operators to have an MSHA approved training plan. When new task training is required mine operators must revise their training plan to include each new task. This revision must include a complete list of task assignments, the titles of personnel conducting the training, the outline of training procedures used, and the evaluation procedures used to determine the effectiveness of the training. Existing § 48.9 requires that upon a miner's completion of each MSHA-approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. Equipping mobile machines with a PDS would require two types of new task training under existing § 48.7(a)(3): PDS Miner-Wearable Component New Task Training and PDS Machine Operator New Task Training.

- Mine employees wearing the miner-wearable component would receive new task training in relation to the miner-wearable component used with a proximity detection system.
- Machine/system operators would receive new task training in relation to machines being equipped with a proximity detection system.

MSHA anticipates that mine operators would make one revision and submission to their training plan to cover both types of the new task training mentioned above. MSHA anticipates that revising a mine training plan would not require significant time or resources, because the Agency provides many publications, training modules and video tapes, as well as accident reports and compilations of accident statistics, routinely used in training courses at little or no cost to the industry. These resources are available to the mining industry and are frequently used by industry trainers, who may be employed by the mine operator directly, by machine manufacturers, or as contractors.

MSHA estimates that it would take 0.25 hours to revise the training plans accordingly. MSHA does not include the estimated burden hours and cost of this provision in this package because this burden would already be accounted for under the OMB Control No. 1219-0009 associated with existing 30 CFR part 48. The estimated burden associated with revising training plans on an annual basis is accounted for in OMB Control No. 1219-0009 under the provision for training plans. Underground coal mine operators routinely revise their training plan at least yearly. The 1.0 hour estimate in OMB Control No. 1219-0009 can subsume the 0.25 hours associated with this proposed rule.

### **B. Proposed § 75.1732(d)(1)**

#### **PDS Pre-Shift Checking Burden**

Proposed § 75.1732(d)(1) would require that at the completion of the check required under proposed § 75.1732(c)(1), the certified person specified in existing § 75.100 would certify by initials, date, and time that the check has been conducted. MSHA estimates that it

would take a certified person earning \$35.30 an hour (including benefits) 0.003 hours (10 seconds) to certify by initials, date, and time that the check has been conducted. Proposed § 75.1732(d)(1) would also require that any defects found as a result of this check, including corrective actions and date of corrective action, must be recorded. MSHA estimates that once a year, a corrective action would be needed. Recording and certifying this corrective action would require an additional 2 minutes (0.033 hrs.).

MSHA estimates the number of checks per machine per year is: 200 checks at mines with 1-19 employees (200 workdays x 1 shift per workday); 600 checks at mines with 20-500 employees (300 workdays x 2 shifts per workday); and 1,050 checks at mines with 501+ employees (350 workdays x 3 shifts per workday). MSHA projects that on average there would be 881 PDS equipped machines (345 machines in year one, 1,150 machines in years two and three).

MSHA's estimates of the annual burden hours and related burden costs to underground coal mine operators are presented below.

#### PDS Equipped Machines

89 PDS equipped machines at mines with 1-19 employees  
734 PDS equipped machines at mines with 20-500 employees  
58 PDS equipped machines at mines with 501+ employees  
881 total PDS equipped machines

#### Responses

17,800 checks (89 PDS equipped machines x 200 checks)  
440,400 checks (734 PDS equipped machines x 600 checks)  
60,900 checks (58 PDS equipped machines x 1,050 checks)  
881 corrective actions (881 PDS equipped machines x 1 corrective action)  
Total responses = 519,981

#### Burden Hours

519,100 checks x 0.003 hrs per check = 1,557 hrs  
881 corrective actions x 0.033 hrs per corrective action = 29 hrs  
Total burden hours= 1,586

#### Burden Costs

1,586 hrs. x \$35.30 hourly wage rate = \$55,986

### **C. Proposed § 75.1732(d)(2)**

#### **Burden for Recording Corrective Actions on Miner-Wearable Components of PDS**

Proposed § 75.1732(d)(2) would require the recording of defects found as a result of the check in proposed § 75.1732(c)(3) of the miner-wearable component. These defects, including corrective actions and date of corrective action, would need to be recorded. Recording and certifying this corrective action would require 2 minutes (0.033 hrs.) of a miner's time at a non-supervisory wage of \$35.30 an hour (including benefits). MSHA

estimates that 11,683 miner-wearable components would be in use and that 10% (1,168) of these components would require a corrective action each year.

MSHA's estimates of the annual burden hours and costs to underground coal mine operators are presented below.

Miner-Wearable Components

11,683 miner-wearable components

Responses

1,168 records of corrective actions (11,683 components x 10%)

Burden Hours

1,168 corrective actions x 0.033 hrs per corrective action = 39 hrs

Burden Costs

39 hrs. x \$35.30 hourly wage rate = \$1,377

**D. Proposed § 75.1732(d)(3)**

**Burden for PDS Examination At Least Every Seven Days**

Proposed § 75.1732(d)(3) would require that at the completion of the examination under proposed § 75.1732(c)(3), the qualified person conducting the examination would record and certify by signature and date that the examination was conducted. Defects, including corrective actions and date of corrective action, would be recorded. MSHA estimates that a qualified person would spend approximately 1 minute (0.017 hrs.) recording and certifying that the examination occurred. MSHA estimates that once a year, a corrective action would be needed. The examination would be conducted by a qualified person, earning a non-supervisory wage of \$35.30 an hour (including benefits). Recording and certifying this corrective action would require an additional 2 minutes (0.033 hrs.). MSHA projects that on average there would be 881 PDS equipped machines. MSHA's estimates of the annual burden hours and costs to underground coal mine operators are presented below.

PDS Equipped Machines

881 PDS equipped machines

Responses

44,050 records of exams (881 PDS equipped machines x 50 exams)

881 records of corrective actions

Total responses= 44,931

Burden Hours

44,050 exams x 0.017 hrs per exam = 749 hrs

881 corrective actions x 0.033 hrs per corrective action= 29 hrs

Total burden hours= 778 hours

Burden Costs

778 hrs. x \$35.30 hourly wage rate = \$27,463

**E. Proposed § 75.1732(d)(4)**

**PDS Installation and Maintenance Training Burden**

Proposed § 75.1732(d)(4) would require that a record be kept of personnel trained in the installation and maintenance of proximity detection systems. MSHA anticipates that a clerical employee, earning \$26.00 per hour (including benefits), would spend 3 minutes (0.05 hrs.) creating a record of all trained personnel at each mine. MSHA estimates that 115 mine employees would have to be trained in the installation and maintenance of proximity detection systems each year. MSHA anticipates that a clerical employee, earning \$26.00 per hour (including benefits), would spend 1 minute (0.017 hrs) creating a record of each miner trained on the installation and maintenance of PDS. MSHA projects that an average of 141 mine records and 115 mine employee records would be created each year. MSHA's estimates of the burden hours and related burden costs to underground coal mine operators are presented below.

Responses

141 mine records  
115 mine employee records  
Total responses= 256 records

Burden Hours

141 mine records x 0.05 hrs to make the record = 7 hrs  
115 mine employee records x 0.017 hrs to make the record = 2 hrs  
Total burden hours= 9 hrs

Burden Costs

9 hrs. x \$26.00 hourly wage rate = \$234

<b>GRAND TOTAL RESPONSES</b>	<b>= 566,357</b>
<b>GRAND TOTAL BURDEN HOURS</b>	<b>= 2,582, hrs</b>
<b>GRAND TOTAL BURDEN HOUR COST</b>	<b>= \$99,460</b>

**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 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 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.**

#### **Total annual cost burden to respondents or recordkeepers resulting from the collection of information under new § 75.1732(a)**

30 CFR part 5 - Fees for Testing, Evaluation, and Approval of Mining Products: § 5.10 states "This part establishes a system under which MSHA charges a fee for services provided under this subchapter. This part includes the management and calculation of these fees." These fees apply to all parts and subparts contained in subchapter B, including 30 CFR part 18.

Under the 2011 fee schedule issued pursuant to 30 CFR part 5, MSHA charges \$97 per hour to evaluate applications for approval. The fee for testing, evaluation and approval of a product is based on the costs of the services provided. Each service provided for a group of similar products is assessed an hourly rate to cover direct and indirect costs.

Direct costs are based on current compensation and benefit costs for technical and support personnel directly involved in providing the service. Indirect costs are based on a proportionate share of the cost of activities which support the approval service, including management and administration of MSHA, facility operating costs, and amortization and depreciation of facilities and equipment. MSHA accounts for the costs of support personnel (overhead costs) using a multiplication factor of 1.523. The costs of support personnel include costs to account for computer tracking, clerical, records control, document filing and retrieval. Unless otherwise noted, the average postage costs to submit an application is estimated to be \$5.

#### **Manufacturers' Approval Burden for Equipping PDS on Electrical Machines**

To determine costs under this section, MSHA has estimated the number of hours it would take to review the relevant documents, i.e., applications, etc. The actual calculation used takes into account the number of documents, the number of hours it takes to review each document, a decimal figure determined by MSHA to account for overhead costs, and the hourly rate charged by MSHA to review the documents.

Destructive testing is often required during the evaluation of the mining equipment and materials covered under this part. However, the cost of the samples subjected to destructive testing is insignificant and a customary and usual business practice.

Costs

1 acceptance applications x 35 hours x \$97 x 1.523 = \$5,171

5 RAMP applications x 18 hours x \$97 x 1.523 = \$13,296

6 applications x \$5 postage cost = \$30

**Mine Operators' Cost to Copy and Submit District Field Change Requests to MSHA for Approval**

MSHA anticipates that mine operators would submit district field change requests in order to equip mobile machines with a PDS according to proposed § 75.1732. MSHA estimates it would cost \$0.30 to print two copies of the request (one copy would be kept on file by the mine operator and the other copy would be submitted to MSHA) and \$1.00 in postage costs to mail the request letter to MSHA's district or field office. MSHA's estimates of underground coal mine operators' costs are presented below.

Costs

15 district field change requests x \$1.30 = \$20

Total Cost Burden = \$18,517

**GRAND TOTAL COST BURDEN = \$18,517**

**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.**

MSHA charges applicants a fee for testing, evaluating, and approving products. Therefore, the only costs to the Federal Government under 30 CFR part 18 are those related to post-approval audits. These audits are conducted in MSHA laboratories by lab personnel or at mine warehouses, or manufacturing or distribution sites by Mining Equipment Compliance Specialists. The number of post-approval audits conducted is based on the number of machines approved under part 18. Since the proposed rule would not change the number of approved machines, the proposed rule would not create any additional costs to the Federal Government.

MSHA inspects the changes made to a machine specified in a district field change request. These inspections are performed by MSHA at no cost to the mine operator or the Federal Government. The inspections are conducted during regularly scheduled inspections and do not increase the burden of MSHA's mine inspectors.

**15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

This would be a new collection of information package.

**16. For collections of information whose results are planned to 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.**

The OMB control number and expiration date would be displayed for the electronic copy of the plan on the MSHA web page and on the Department's elaws web page.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

There would be no exceptions to the certification statement on the OMB 83-I.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.

## ATTACHMENT

The following statutes and regulations are provided as requested by question A.1 which requests a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.

### Statutes

Section 101(a) of the Mine Act provides that:

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.

Section 103(h) of the Mine Act authorizes MSHA to collect information necessary to carryout its duty in protecting the safety and health of miners, as follows:

(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. \* \* \*

Section 115(a) of the Mine Act states that:

(a) Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. \* \* \*

Section 318(c) of the Mine Act provides that:

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment, other than permissible electric face equipment, to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

\* \* \*

(i) "permissible" as applied to electric face equipment means all electrically operated equipment taken into or used in by the last open crosscut of an entry or a room of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the specifications of the Secretary, to assure that such equipment will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the specifications of the Secretary, to

prevent, to the greatest extent possible, other accidents in the use of such equipment; and the regulations of the Secretary or the Director of the Bureau of Mines in effect on the operative date of this title relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment as permissible shall continue in effect until modified or superseded by the Secretary, except that the Secretary shall provide procedures, including, where feasible, testing, approval, certification, and acceptance in the field by an authorized representative of the Secretary, to facilitate compliance by an operator with the requirements of section 305(a) of this title within the periods prescribed therein; \* \* \*

## **Proposed Regulations**

### **PART 75— MANDATORY SAFETY STANDARDS UNDERGROUND COAL MINES 30 CFR § 75.1732 Proximity detection systems.**

Operators shall install proximity detection systems on certain mobile machines.

(a) Machines covered.

Operators must equip continuous mining machines (except full-face continuous mining machines) with a proximity detection system in accordance with the following dates.

\* \* \*

(b) Requirements for proximity detection systems.

A proximity detection system must:

(1) Cause a machine to stop no closer than 3 feet from a miner except for a miner who is:

(i) In the on-board operator's compartment; or

(ii) Remotely operating a continuous mining machine while cutting coal or rock, in which case, the proximity detection system must cause the machine to stop before contacting the machine operator.

(2) Provide an audible or visual warning signal, distinguishable from other signals, when the machine is 5 feet and closer to a miner except for a miner who is:

(i) In the on-board operator's compartment; or

(ii) Remotely operating a continuous mining machine while cutting coal or rock.

(3) Provide a visual signal on the machine that indicates the system is functioning properly;

(4) Prevent movement of the machine if the system is not functioning properly. However, a system that is not functioning properly may allow machine movement if an audible or visual warning signal, distinguishable from other signals, is provided during movement. Such movement is permitted only for purposes of relocating the machine from an unsafe location for repair;

(5) Be installed to prevent interference with or from other electrical systems; and

(6) Be installed and maintained by a person trained in the installation and maintenance of the system.

(c) Examination and checking.

Operators must:

(1) Designate a person who must perform a visual check of machine-mounted components of the proximity detection system to verify that components are intact, that the system is functioning properly, and take action to correct defects—

(i) At the beginning of each shift when the machine is to be used;

(ii) Immediately prior to the time the machine is to be operated if not in use at the beginning of a shift; or

(iii) Within 1 hour of a shift change if the shift change occurs without an interruption in production.

(2) Check for proper operation of miner-wearable components at the beginning of each shift that the component is to be used. Defects must be corrected before the component is used.

(3) Designate a qualified person under § 75.153 to examine proximity detection systems for the requirements in paragraphs (b)(1) through (b)(5) of this section at least every 7 days. Defects in the proximity detection system must be corrected before the machine is returned to service.

(d) Certification and records.

The operator must make and retain certification and records as follows:

(1) At the completion of the check required under paragraph (c)(1) of this section, a certified person under § 75.100 must certify by initials, date, and time that the check was conducted. Defects found as a result of the check in (c)(1) of this section, including corrective actions and date of corrective action, must be recorded.

(2) Defects found as a result of the check in (c)(2) of this section, including corrective actions and date of corrective action, must be recorded.

(3) At the completion of the examination required under paragraph (c)(3) of this section, the qualified person must record and certify by signature and date that the examination was conducted. Defects, including corrective actions and date of corrective action, must be recorded.

(4) Make a record of the persons trained in the installation and maintenance of proximity detection systems required under paragraph (b)(6) of this section.

(5) Maintain records in a secure book or electronically in a secure computer system not susceptible to alteration.

(6) Retain records for at least one year and make them available for inspection by authorized representatives of the Secretary and representatives of miners.

\* \* \*