

SUPPORTING STATEMENT

30 CFR Part 75.1716, 75.1716-1 and 75.1716-3, Operations Under Water (pertain to 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.

Title 30 C.F.R. § 75.1716, 75.1716-1 and 75.1716-3 require operators of underground coal mines to provide MSHA notification before mining under bodies of water and to obtain a permit to mine under a body of water if, in the judgment of the Secretary, it is sufficiently large to constitute a hazard to miners. This is a statutory provision contained in Section 17(r) of the Federal Mine Safety and Health Act of 1977. The regulation is necessary to prevent the inundation of underground coal mines with water which has the potential of drowning miners.

The coal mine operator submits an application for the permit to the District Manager in whose district the mine is located. Applications contain the name and address of the mine; projected mining and ground support plans; a mine map showing the location of the river, stream, lake or other body of water and its relation to the location of all working places; a profile map showing the type of strata and the distance in elevation between the coal bed and the water involved. MSHA has provided an exemption from notification and permit application for mine operators where the projected mining is under any water reservoir being constructed by a Federal agency as of December 30, 1969, and where the operator is required by such agency to operate in a manner that adequately protects the safety of miners. The exemption for such mining is addressed by 30 C.F.R. §75.1716 and 75.1717.

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

Before issuing a permit, MSHA makes a detailed analysis of the data concerning the strata between the body of water and the proposed mine workings to determine if the mine workings can be driven safely.

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, however in order to comply with the Government Paperwork Elimination permit applications submitted under 30 CFR 75.1716 to mine under bodies of water are type written notices consisting of narratives, descriptions, lists, tables and drawing. These documents can be prepared using Personal Computers, automated drafting programs and word processing programs and submitted via E-mail, where the mine operator has the capability of affixing transmittable authorization signatures or where the E-mail or facsimile is followed by a signed hard copy. However, neither the use of nor absence of access to electronic media significantly effect the burden imposed by the standard.

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.

No similar or duplicate information exists. Permits are issued on a mine by mine basis.

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

The provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act) and MSHA regulations and standards apply to all operations because accidents, injuries, and illnesses can occur at any mine regardless of size. Congress intended that the law be enforced at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Act. However, Congress did recognize that small operations may face problems in complying with some of the provisions of the Mine Act. Section 103(e) of the Mine Act directs the Secretary not to impose an unreasonable burden on small businesses in obtaining any information under the Act. This information collection does not have a significant impact on a substantial number of 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.

The mine operator files a request in writing with the appropriate MSHA District Manager. MSHA makes a detailed analysis to determine if the tunnel can be driven safely.

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.

The mine operator files the required information with the MSHA District Manager only once. However, changes in mine planning or mine ownership occasionally require revisions. In addition, should the approved development and roof control plan proves inadequate, MSHA may require revisions or changes to continue permission to mine under the body of water. This collection of information is consistent with the guidelines in 5 C.F.R. § 1320.5.

Recordkeeping: The CFR does not mention whether or not a record of the permit should be kept and for how long. However, MSHA maintains a copy of the permit application and the correspondence granting the permit in the mine file throughout the active life of the mine. In addition, both the permitted mine workings and the location and extent of the body of water are a permanent part of the information required on the certified mine map. MSHA

occasionally will require the conditions under which a permit application is approved to be included in the mine roof control plan (30 C.F.R. § 75.220) where the District Manager determines such information is necessary to adequately protect miners.

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 the 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 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 reenumeration of contractors or grantees.

MSHA has made no decision to provide payment or gifts to the respondents.

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

Only mine operators who project mining under a river, lake, reservoir, flooded mine or other bodies of water must notify the MSHA District Manager. Then, only those mines at which the District Manager determines that there may be a hazard, must file a permit application with a detailed plan for conducting the mining. These occurrences are infrequent. MSHA has not developed a standard form for either the notices or the permit application. No records requiring confidentiality are required.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens 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 14.

A mine operator must notify the MSHA district manager of plans to conduct mining under a body of water and apply for a permit before conducting such mining. Typically, the permit application is submitted at the recommendation of MSHA at the time that MSHA conducts its annual review of mining projections submitted by the mine operator in accordance with 30 C.F.R. §75.371 and 75.1203.

MSHA estimates that there are currently 38 coal mines with permits to operate under water. In addition, MSHA estimates that there would be 10 revised permit applications submitted each year that would incorporate procedures for mining under water. Accordingly, MSHA estimates that it would take an average of 5 hours to prepare a revised permit application.

10 applications x 5 hours/application = 50 burden hours

Permit applications contain mining projections, proposed roof support systems, and an analysis of the potential for inundation based upon the type of strata separating the proposed workings from the body of water. Such information is compiled by geological or mining engineers or engineering consultants. MSHA estimates an hourly rate for such technical personnel (**U.S. Coal Mine Salaries, Wages and Benefits -2000 Survey Results, Western Mine Eng, Inc./weighted average for coal supervisors**) to be

\$54.53 per hour.

MSHA, further estimates that the annual cost associated with the operators burden hours to be:

$$50 \text{ burden hours} \times \$54.53/\text{hr.} = \$2,726.50$$

Although new permit applications are rarely received by MSHA (costs for which are not included), it is estimated that it would take the mine operator approximately 16 hours to prepare a new permit application. Therefore, if such an application was required, MSHA estimates the burden cost to be:

$$16 \text{ hours} \times \$54.53/\text{hour} = \$872.48$$

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).

No equipment must be purchased specifically for the purpose of providing/gathering the information required by these standards. The notices and permit application are prepared on office equipment and or engineering equipment maintained at the mine for normal business activities.

However, since these documents are mandatory requirements most if not all are sent to MSHA by certified mail so that a record of delivery is secured by the mine operator(s). Assuming that each of the permit applications is submitted by certified mail, the operators will incur additional transmittal costs estimated at

$$\$15.00 \text{ per package} \times 10 \text{ applications} = \$150$$

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 estimates that approximately 10 applications are received each year. MSHA estimates it takes approximately 16 hours to review the application and issue a permit or deny approval of the permit application. MSHA utilizes GS-12/13, step 5 -880 Mining Engineers for such reviews whenever possible. The average salary for such technical personnel based on the FY 2001 GS Wage Schedule (GS 12/5 - \$26.19/hr. + GS 13/5 - \$31.14 /2 = \$28.76 per hour) is estimated to be \$59,822 per year or \$2876/hr.

10 applications x 16 hours x \$28.76 = \$4,601.60

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

MSHA has determined that the reduced burden associated with notices and permit applications reflects a continuing decline in the number of underground coal mines.

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.

There are no statistical aspects.

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.

Since there are no forms on which to display the expiration date, MSHA is not seeking approval to either display or not display the expiration date for OMB approval of this information collection.

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

There are no certification exceptions identified with this information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Describe (including numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

This information does not employ statistical methods.

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