

## SUPPORTING STATEMENT

30 C.F.R. §§ 75.1716, 75.1716-1 and 75.1716-3, Operations Under Water (pertains 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. The regulation is necessary to prevent the inundation of underground coal mines with water which has the potential of drowning miners. Section 103(h) of the Mine Act, 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of 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; and 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 relies upon the information collected to make a detailed analysis of the data concerning the strata between the body of water and the proposed mine workings to determine if the proposed mining can be conducted 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. Permit applications submitted under 30 C.F.R. § 75.1716 to mine under bodies of water are typewritten notices consisting of narratives, descriptions, lists, tables and drawings which can be prepared using Personal Computers, automated drafting and word processing programs. Such documents may be 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 affect 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.**

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.**

If MSHA did not collect this information then it could not make a detailed analysis to determine if the proposed plan to mine under bodies of water could proceed 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.

This collection of information is consistent with the guidelines in 5 C.F.R. § 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 C.F.R. § 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

MSHA published a 60-day Federal Register notice on Thursday, June 24, 2010, (Volume 75, Number 121, Page 36122), notifying the public that the information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995. MSHA received one comment. In summary, Title 30 C.F.R. §§ 75.1716, 75.1716-1 and 75.1716-3 require operators of underground coal mines to notify MSHA 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. The regulation is necessary to prevent the inundation of underground coal mines with water which has the potential of drowning miners. Section 103(h) of the Mine Act, 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

For standard 75.1716, the commenter states that this requirement is necessary for the proper performance of the functions of the agency and the information collection has the practical utility of helping the mine operator must understand that it is necessary to approach such mining with caution and have a plan in place to protect the mine and miners working at the mine where there is a possibility of inundation. The commenter

also states that it is acceptable for information to be submitted electronically as long as a copy of the plan is provided to the miners' representative and is available on mine property for people to view. Finally, the commenter states that this standard should not be changed.

The commenter states that the previous comments also apply to standards 75.1716-1, and 75.1716-3.

**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.

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

No records requiring confidentiality are required.

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

There are no questions of a sensitive nature.

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

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

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 records indicated that at the end of 2009 there were 407 underground coal mines that were in active status whose operators could propose to mine coal under a body of water and be required to submit a permit application under 30 C.F.R. § 75.1716-3.

Based upon its records, MSHA expects approximately 80 permit applications to be submitted each year by mine operators proposing to mine under bodies of water. MSHA estimates that it would take an average of 5 hours to prepare a permit application.

$$80 \text{ applications} \times 5 \text{ hours/application} = 400 \text{ burden hours}$$

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 2009 Survey Results, Western Mine Eng, Inc./weighted average for coal supervisors) to be \$84.70 per hour.

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

$$400 \text{ burden hours} \times \$84.70/\text{hr.} = \$33,880$$

**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:

$$\text{\$20.00 per package} \times 80 \text{ applications} = \text{\$1,600}$$

**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 80 applications are received each year. MSHA estimates it takes approximately 16 hours to review the application and either issue or deny a permit. MSHA utilizes GS-12/13, step 5 Mining Engineers for such reviews. The average salary for such technical personnel based on the CY 2010 GS Wage Schedule (GS 12/5 - \$32.73/hr. and GS 13/5 - \$38.92). Therefore, the average salary of an MSHA Mining Engineer reviewing applications is approximately \$35.83 per hour.

$$80 \text{ applications} \times 16 \text{ hours} \times \$35.83 = \$45,862$$

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

MSHA's records for 2007-2009 show that the number of plans for mining underwater that were reviewed averaged approximately 80 plans per year, this is higher than the previously used estimate of 30 plans per year. Increased awareness of inundation hazards since the Quecreek incident in 2002 may have contributed to the increase in the number of permit applications. In addition, the average wage rates used were slightly higher than in the previous calculations.

**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,**

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**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.

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

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2. Describe the procedures for the collection of information including:

- Statistical methodology for stratification and sample selection,
- Estimation procedure,
- Degree of accuracy needed for the purpose described in the justification,
- Unusual problems requiring specialized sampling procedures, and
- Any use of periodic (less frequently than annual) data collection cycles to reduce burden.

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.

**5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.**

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