SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSIONS

Proposed Rule: Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards

NOTE: This paperwork package addresses the proposed procedures for testing and evaluation of MSHA approved products for use in underground mining. It would give manufacturers of certain products who seek MSHA approval the option of using MSHA or an independent laboratory to perform testing and evaluation for MSHA product approval. In addition, it would also permit manufacturers to have their products approved based upon non-MSHA product safety standards, provided that MSHA has determined that the non-MSHA standards are equivalent to MSHA's requirements or can be modified to provide at least the same measure of protection for the miner.

The paperwork requirements for applications for approval by MSHA of products and equipment under 30 CFR parts 18, 19, 20, 22, 23, 27, 33, 35, and 36 are cleared under OMB Control Number 1219-0066.

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.

Under the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173 as amended by Pub. L. 95-164) (Mine Act)), the Mine Safety and Health Administration (MSHA) is required to approve certain products and equipment for use in underground mines. This approval indicates that MSHA's specifications and tests, designed to ensure that a product will not present a fire, explosion, or other specific safety hazard related to its use, have been met. This proposed rule would establish alternate requirements for testing and evaluation of products MSHA approves for use in gassy underground mines. It would permit manufacturers of certain products, who seek MSHA approval, to use an independent laboratory to perform, in whole or part, the necessary testing and/or evaluation for approval, if they choose to do so. The proposed rule also would permit manufacturers to have their products approved based on non-MSHA product safety standards, if they desired. This would only occur after MSHA has determined that such standards are equivalent to its applicable product approval requirements or can be modified to provide at least the same degree of protection as those MSHA requirements. The proposed rule should increase the availability of a wider variety of mining products having enhanced safety features by reducing costs and broadening the market for mining equipment.

Section 6.10(a)(1) through (a)(3); 6.10(d) and 6.10(f) contain paperwork requirements. Under § 6.10, applicants seeking MSHA product approval would have to provide the information stated in paragraphs (a)(1) through (a)(4) for MSHA to accept testing and evaluation performed by an independent laboratory. Currently, applications require only information requested in paragraph (a)(4).

Paragraph (a)(1) would require "written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization." Paragraph (a)(2) would require "a complete technical explanation of how the product complies with each requirement in the applicable MSHA

product approval requirements." Paragraph (a)(3) would require "identification of components or features of the product that are critical to the safety of the product." The information in paragraphs (a)(1) through (a)(3) would be completed by the independent laboratory and supplied to the applicant, who would then send it to MSHA as part of its application. Information requested in paragraphs (a)(1) through (a)(3) is needed for the proposed rule because MSHA would no longer be performing all the tests and evaluations associated with the approval application. It is important to know that the laboratory has the independence to ensure the objectivity and accuracy of any testing and evaluation performed. It is also crucial that the laboratory be recognized by a laboratory accrediting organization to ensure the laboratory has the competence, resources, and personnel capable of performing the necessary testing and evaluation. In addition, the information in paragraphs (a)(2) and (a)(3) is needed to determine if the product complies with the applicable approval requirements.

Certain test and evaluation requirements in product safety standards used by independent laboratories are similar to MSHA's current approval requirements. Applicants routinely have such tests and evaluations performed by an independent laboratory when seeking a non-MSHA approval or listing. Generally, under the circumstances of this proposed rule, some applicants, before requesting an MSHA product approval either based on MSHA's approval requirements or non-MSHA product safety standards that are equivalent to MSHA's approval requirements, may already have had an independent laboratory perform some portion of the tests and evaluations that are also needed to obtain an MSHA product approval. It is with regard to these test and evaluation results that MSHA would require the data requested in paragraphs (a)(1) through (a)(3). The costs of the tests and evaluations performed by an independent laboratory would have already occurred before the applicant files an MSHA product approval application. Therefore, the only costs to applicants associated with §6.10(a)(1) through (a)(3) would be those related to passing on the information required in these provisions to MSHA that the applicant has received from the independent laboratory.

Section 6.10(a)(2) Compliance Costs Associated with § 6.10(d):

If an independent laboratory conducts any additional or repeat testing, then the applicant would have to send the test results to MSHA. This is true even if MSHA observes the testing performed by the independent laboratory. However, if MSHA performs additional or repeat testing itself, then it is not necessary for the applicant to send in the test results to MSHA. Sending additional or repeat testing results to MSHA is covered under § 6.10(a)(2). Information concerning § 6.10(a)(1) and (a)(3) that was sent to MSHA with the original approval application would not have to be sent again as a result of any additional or repeat testing.

Section 6.10(f):

Paragraph (f) of § 6.10 would require that, once the product is approved, the approval holder must notify MSHA of all product defects of which the approval holder is aware. MSHA expects that such defects would occur and be reported very infrequently.

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 respondents for the paperwork provisions of this revised proposed rule are manufacturers applying to MSHA for product approvals. The information would be used by staff at our Approval and

Certification Center to analyze approval applications to determine if they comply with the approval regulations. The information would show whether the tests and examinations were properly conducted, whether the laboratory was independent and competent to perform the testing and evaluation, and whether the approval requirements were met.

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.

N/A- No improved information technology has been identified that would reduce the burden.

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 2 above.

MSHA's Approval and Certification Center is the only Center in the country which is authorized to approve equipment and certain products for use in mines. Therefore, it is unlikely that there would be a duplication because of this unique function.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

It should be noted that MSHA's approval regulations apply equally to all manufacturers regardless of size to ensure that miners are protected from products that could cause a fire or explosion or other safety hazard related to use. The information collection requirements of the revised proposed rule would only apply if an applicant for product approval chooses to use an independent laboratory to perform any other testing and evaluation required under the applicable approval regulations. The applicant would only need to pass on to MSHA information which the independent laboratory would generally already have available.

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.

It is important to emphasize that MSHA-approved products for use underground are designed to meet technical requirements so they do not cause a fire or explosion or other safety hazard related to use. This is one way in which the health and safety of the mining industry's "most precious resource - the miner" is protected from such hazards. (See Section 2 of the 1977 Mine Act). If the proposed information collections discussed in question 1 were not conducted, the consequences would be severe. The integrity of MSHA's product approvals would be adversely affected and unsafe products could be introduced into the mines. Once a product is approved, the approval-holder is authorized to place a MSHA approval marking on the product which identifies it as approved for use underground. Use of the marking obligates the manufacturer to maintain the quality of the product. The MSHA marking indicates to the mining community that the product meets the technical requirements and has been manufactured according to the drawings and specifications approved. If MSHA were unable to obtain from approval-holders products for audit and information regarding product defects, it would hamper efforts to enforce manufacturers' obligation to maintain quality assurance of their products. Moreover, it would be difficult to effectively assure the mining community that products required to be approved for use underground are in fact safe for use.

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, rant-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.**

Proposed collection of information is consistent with the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the data 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 will publish the 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 not provided payments 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.

MSHA considers information submitted as part of applications for product approval, especially information regarding product's specifications and performance, as proprietary. See for example, 30 CFR

15.9, 18.9, and 36.9. Product approval applications are kept at the Approval and Certification Center in a restricted area that is accessible only to supervisors and Center employees responsible for handling these records. This is a secured area in which proprietary and confidential information is safeguarded against violations of 18 U.S.C. 1905 and 5 CFR 552(b)(4). The Center maintains a high level of security on entering the building which houses mine operators' documents. All visitors entering the building are required to wear badges that are easily visible on a person's outer clothing. These badges identify persons as visitors to the Center, which facilitates control within secure areas. Employees are issued DOL identification cards that are required to be shown to security guards upon request.

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 form whom the information is requested, and any steps to be taken to obtain their consent.

NA - 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.**

The Table below summarizes the total annual burden hours and costs associated with the part 6 revised proposal. Annually the revised proposal would impose 29 paperwork burden hours, with associated costs of $645. Applicants seeking MSHA product approval that employ 500 or fewer workers would incur 16 paperwork burden hours and related costs of $344. Applicants seeking MSHA product approval that employ more than 500 workers would incur 13 paperwork burden hours and related costs of $301.

	≤ 500 Workers	≤ 500 Workers	> 500 Workers	> 500 Workers	Annual Totals	Annual Totals
Section	Burden Hours	Burden Costs	Burden Hours	Burden Costs	Burden Hours	Burden Costs
6.10(a)(1)-(a)(3)[1]	12.5	$240.75	11.25	$216.68	23.75	$457.43
6.10(a)(2)[2]	1.5	$ 28.89	0.5	$ 9.63	2.0	$ 38.52
6.10 (f)[3]	1.5	$ 74.52	1.5	$ 74.52	3.0	$149.04
Total	15.50	$344.16	13.25	$300.83	28.75	$644.99
Total – Rounded	16	$344	13	$301	29	$645

[1]See Calculation No. 1
[2]See Calculation No. 2
[3]See Calculation No. 3

Note that in some cases below our estimates may appear to deviate slightly from the sum or product of their component factors, but that is only because the component factors have been rounded for the purpose of readability.

PAPERWORK PROVISIONS

SECTION 6.10(a)(1) THROUGH (a)(3)

Under §6.10, applicants seeking MSHA product approval would have to provide the information stated in paragraphs (a)(1) through (a)(4) for MSHA to accept testing and evaluation performed by an independent laboratory. Currently, applications require only information requested in paragraph (a)(4). Information requested in paragraphs (a)(1) through (a)(3) is needed for the revised proposal because MSHA would no longer be performing all the tests and evaluations associated with the approval application.

Paragraph (a)(1) would require "written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization." Paragraph (a)(2) would require "a complete technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements." Paragraph (a)(3) would require "identification of components or features of the product that are critical to the safety of the product." The information in paragraphs (a)(1) through (a)(3) would be completed by the independent laboratory and supplied to the applicant, who would then send it to MSHA.

Certain test and evaluation requirements required under non-MSHA product safety standards used by independent laboratories are similar to MSHA's current approval requirements. Applicants routinely have such tests and evaluations performed by an independent laboratory when seeking a non-MSHA approval or listing. Generally, under the circumstances of this revised proposal, before requesting an MSHA product approval either based on MSHA's approval requirements or non-MSHA product safety standards that are equivalent to MSHA's approval requirements, applicants would already have had an independent laboratory perform some portion of the tests and evaluations that are also needed to obtain an MSHA product approval. It is with regard to these test and evaluation results that MSHA would require the data requested in paragraphs (a)(1) through (a)(3). The costs of the tests and evaluations performed by an independent laboratory would have already occurred before the applicant files an MSHA product approval application. Therefore, the only costs to applicants associated with §610(a)(1) through (a)(3) would be those related to passing on the information required in these provisions to MSHA that the applicant has received from the independent laboratory.

Table IV-3 of the Preliminary Regulatory Economic Analysis (PREA) shows a total of 16 applications annually (10 applications for those employing 500 or fewer workers and six applications for those employing more than 500 workers) for which applicants would be expected to file under part 6 requesting an MSHA approval based on independent laboratory testing and evaluation to MSHA approval requirements. Tables IV-4 through IV-9 of the PREA show a total of 79 applications (40 applications for those employing 500 or fewer workers and 39 applications for those employing more than 500 workers) for which applicants would be expected to file annually under part 6 seeking an MSHA

approval based on non-MSHA approval requirements that are equivalent to MSHA's approval requirements. Therefore, there would be an annual total of 95 anticipated applications, 50 (40 + 10) applications associated with applicants employing 500 or fewer workers and 45 (39 + 6) applications associated with applicants employing more than 500 workers, for which the information requested in paragraphs (a)(1) through (a)(3) must be sent by the applicant to MSHA.

MSHA estimates that a clerical worker, earning $19.26 per hour, would take 15 minutes (0.25 hours) per application to prepare and send the data requested in paragraphs (a)(1) through (a)(3).

Calculation No. 1 lists applicants annual burden hours and related costs to provide information requested in §6.10 paragraphs (a)(1) through (a)(3).

Calculation No. 1: Estimated Burden Hours

≤ 500 workers: 50 applications x .25 hours	=	12.5 hours
> 500 workers: 45 applications x .25 hours	=	11.25 hours
Total estimated burden hours	=	23.75 hours

Burden Hour Cost

23.75 hours x $19.26/hours	=	$457.43

Section 6.10(a)(2) Compliance Costs Associated with §6.10(d)

If an independent laboratory conducts any additional or repeat testing, then the applicant would have to send the test results to MSHA. This is true even if MSHA observes the testing performed by the independent laboratory. However, if MSHA would perform additional or repeat testing itself, then it would not be necessary for the applicant to send in the test results to MSHA. Sending additional or repeat testing results to MSHA is covered under §6.10(a)(2). Information concerning §6.10(a)(1) and (a)(3) that was sent to MSHA with the original approval application would not have to be sent again as a result of any additional or repeat testing.

For applicants employing 500 or fewer workers, Table IV-11(A) of the PREA shows 16 applications that would involve additional or repeat testing. Of these 16 applications, MSHA estimates that six applications would involve testing performed by an independent laboratory.

For applicants employing more than 500 worker, Table IV-11(B) of the PREA shows 11 applications that would involve additional or repeat testing. Of these 11 applications, MSHA estimates that two applications would involve testing performed by an independent laboratory.

MSHA estimates that a clerical worker, earning $19.26 per hour, would take 15 minutes (0.25 hours) per application to prepare and send the test results requested in §6.10(a)(2).

Calculation No. 2 shows applicants' annual burden hours and related costs to provide the information requested in §6.10(a)(2) for the additional or repeat testing required under §6.10(d).

Calculation No. 2: Estimated Burden Hours

≤ 500 workers:	6 applications x .25 hours	=	1.5 hours
> 500 workers:	2 applications x .25 hours	=	0.5 hours
	Total estimated burden hours	=	2 hours

Burden Hour Cost

2 hours x $19.26/hours	=	$38.52

Section 6.10(f) Notification of Defective Products

Paragraph (f) of §6.10 would require that, once the product is approved, the approval holder would have to notify MSHA of all product defects of which the approval holder is aware. MSHA expects that such defects would occur and be reported very infrequently. MSHA estimates that annually one applicant employing 500 or fewer workers and one applicant employing more than 500 workers would notify MSHA of a defective approved product. A supervisor earning $49.68 per hour is estimated to take 1.5 hours to notify MSHA in writing about a product defect.

Calculation No. 3 shows the annual costs for applicants to notify MSHA of product defects required by §6.10(f).

Calculation No. 3: Estimated Burden Hours

≤ 500 workers:	1applicant x 1.5 hours	=	1.5 hours
> 500 workers:	1 applicant x 1.5 hours	=	1.5 hours
	Total estimated burden hours	=	3.0 hours

Burden Hour Cost

3.0 hours x $49.68/hours	=	$149.04

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 13 and 15.)

- **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.**

Section 6.10(d) Compliance costs

Paragraph (d) would require, after review of the information submitted under paragraphs (a)(1) through (a)(4), that MSHA notify the applicant if additional information and/or testing is needed. Either MSHA or an independent laboratory would conduct the additional or repeated tests. In either case, the applicant would have to assume the expense. In addition, if an independent laboratory were to conduct the tests, MSHA would have the option of observing the tests. No matter who does the additional or repeat testing the applicant would assume the expense. If MSHA chooses to observe an additional or repeat test performed by an independent laboratory the applicant would have to pay for MSHA's travel and lodging expenses.

For applicants employing 500 or fewer workers, MSHA estimates 16 applications annually would involve additional or repeat testing. The 16 applications consist of: 10 Part 18 Intrinsically Safe (IS) applications; 2 Part 18 Conveyor Belt Flame-Resistant Material (FRM) applications; and 1 application each for Parts 18 Explosion-Proof (XP), 22, 23, and 35. Of these applications, MSHA estimates that six applications annually would involve MSHA's' observing additional or repeat testing: two part 18 Flame-Resistant Material (FRM) applications and one application each for parts 18(XP), 18(IS), 22, and 35.

Part 18(XP) testing costs are estimated to be between $4,000 to $5,000 per application, for an average cost of $4,500. Part 22 testing costs are estimated to be $2,000 per application. Part 18 (FRM) testing costs are estimated to be $1,000. Parts 18(IS), 23, and 35 each have testing costs estimated to be $500. Travel costs are estimated to be between $1,000 and $2,000, for an average of $1,500.

The table below shows annual costs for additional testing that would be required by §6.10 paragraph (d) for applicants employing 500 or fewer workers.

a	b	c	d	E	f
Parts	# of Applications (MSHA expects adtl./repeat tests)	Costs of Tests per Application	# of Applications (adtl/repeat tests MSHA will observe)	Costs Related to Observing Tests [a]	Total Annual Costs [b]
18 (XP)	1	$4,500	1	$1,500	$ 6,000
18 (IS)	10	$ 500	1	$1,500	$ 6,500
18 (FRM)	2	$1,000	2	$1,500	$ 5,000
22	1	$2,000	1	$1,500	$ 3,500
23	1	$ 500	0	NA	$ 500
35	1	$ 500	1	$1,500	$ 2,000
Total	16		6		$23,500

[a] These are travel costs, such as airplane expenses, lodging expenses, etc…
[b] (column b x column c) + (column d x column e)

For applicants employing more than 500 workers, MSHA estimates that 11 applications annually would involve additional or repeat testing. The 11 applications consist of: 4 Part 18(IS) applications; 2 applications each for Parts 18(XP), and 18(CB); and 1 application each for Parts 22, 23, and 35. Of these applications, MSHA estimates that two applications annually would involve MSHA's observing additional or repeat testing: one application each for parts 18(XP) and 18(FRM).

For all applicable parts, testing costs for applicants employing more than 500 workers would be the same as noted above for applicants employing 500 or fewer workers. Travel costs are estimated to be between $1,000 and $2,000, for an average of $1,500.

The Table below shows annual costs for additional testing that would be required by §6.10 paragraph (d) for applicants employing more than 500 workers.

a	b	c	d	e	f
Parts	# of Applications (MSHA expects adtl./repeat tests)	Costs of Tests per Application	# of Applications (adtl/repeat tests MSHA will observe)	Costs Related to Observing Tests [a]	Total Annual Costs [b]
18 (XP)	2	$4,500	1	$1,500	$ 10,500
18 (IS)	4	$ 500	0	NA	$ 2,000
18 (FRM)	2	$1,000	1	$1,500	$ 3,500
22	1	$2,000	0	NA	$ 2,000
23	1	$ 500	0	NA	$ 500
35	1	$ 500	0	NA	$ 500
Total	11		2		$ 19,000

[a] These are travel costs, such as airplane expenses, lodging expenses, etc…
[b] (column b x column c) + (column d x column e)

Section 6.10(a)(1) through (a)(3) Compliance Costs

Under revised proposed §6.10 applicants would provide information stated in paragraphs (a)(1) through (a)(4) for MSHA to accept testing and/or evaluation performed by an independent laboratory. Currently, applicants file in their approval applications information requested in paragraph (a)(4). Information requested in paragraphs (a)(1) through (a)(3) is not currently filed with an approval application, and would be now needed because MSHA would not be performing all the tests and/or evaluations associated with the approval application.

Paragraph (a)(1) would require "written evidence of the laboratory's independence and current recognition by a laboratory accrediting organization." Paragraph (a)(2) would require "a complete and credible technical explanation of how the product complies with each requirement in the applicable MSHA product approval requirements." Paragraph (a)(3) would require "identification of components or features of the product that are critical to the safety of the product." The information in paragraphs

(a)(1) through (a)(3) would be completed by the independent laboratory and supplied to the applicant who would then send it to MSHA.

As noted earlier, certain test and/or evaluation requirements in non-MSHA product safety standards used by of independent laboratories are similar to MSHA's current approval requirements. Applicants routinely have such tests and evaluations done by an independent laboratory when seeking a non-MSHA approval or listing. Generally, under the circumstances of this rulemaking, before requesting an MSHA product approval either based on MSHA's approval requirements or non-MSHA approval requirements that had been determined to be equivalent to MSHA's approval requirements, applicants would already have had an independent laboratory perform some portion of the tests and evaluations that are also needed to obtain an MSHA product approval. It is concerning these test and evaluation results that MSHA would require data requested in paragraphs (a)(1) through (a)(3) if the applicant files for an MSHA approval based on either MSHA's approval requirements or non-MSHA product safety standards that are equivalent to MSHA's approval requirements. The costs of such tests and evaluations by an independent laboratory would occur before the applicant files an MSHA product approval application. Therefore, the only costs to applicants associated with §6.10(a)(1) through (a)(3) would be those related to passing on any test and evaluation results to MSHA that the applicant would have received from the independent laboratory.

Table IV-3 of the PREA shows a total of 16 applications (10 applications for those employing 500 or fewer workers, and six applications for those employing more than 500 workers) where applicants would be expected to file annually under Part 6 requesting an MSHA approval based on MSHA approval requirements. Tables IV-4 through IV-9 of the PREA shows a total of 79 applications (40 applications for those employing 500 or fewer workers, and 39 applications for those employing more than 500 workers) in which applicants would opt to file annually under Part 6 seeking an MSHA approval based on non-MSHA product safety standards that have been determined to be equivalent to MSHA's approval requirements. Therefore, there would be an annual total of 95 anticipated applications, 50 (40 + 10) applications associated with applicants employing 500 or fewer workers and 45 (39 + 6) applications associated with applicants employing more than 500 workers, where information requested in paragraphs (a)(1) through (a)(3) would need to be sent by the applicant to MSHA.

Postage to send MSHA the data requested in paragraphs (a)(1) through (a)(3) is estimated to be $1 per application.

The Table below shows applicants annual postage costs to provide information requested in §6.10 paragraphs (a)(1) through (a)(3).

Applicant Emp. Size	# of Annual Approval Applications	Postage per Application	Total Annual Postage Costs
≤ 500	50	$1	$50
>500	45	$1	$45
Total	95		$95

Section 6.10(a)(2) Compliance Costs Associated with §6.10(d)

independent laboratory. If MSHA would perform additional or repeat testing then it would not be necessary for the applicant to send in the test results to MSHA.

For applicants that employ 500 or fewer worker, Table IV-11(A) of the PREA show 16 applications that would involve additional or repeat testing. Of these 16 applications, MSHA estimates that six applications would involve testing performed by an independent laboratory.

For applicants that employ more than 500 worker, Table IV-11(B) of the PREA show 11 applications that would involve additional or repeat testing. Of these 11 applications, MSHA estimates that two applications would involve testing performed by an (§6.10 paragraph (a)(2)) independent laboratory. Postage to send MSHA the data requested in paragraphs (a)(2) is estimated to be $1 per application.

The Table below shows applicants' annual costs to provide information requested in §6.10 paragraph (a)(2) that is related to §6.10 paragraph (d).

Applicant Emp. Size	# of Annual Approval Applications	Postage per Application	Total Annual Postage Costs
≤ 500	6	$1	$6
>500	2	$1	$2
Total	8		$8

Section 6.10(e)

Paragraph (e) of §6.10 would require that, upon request by MSHA but not more than once a year, except for cause, approval holders of products approved based on independent laboratory testing and evaluation must make such products available for audit at a mutually agreeable site at no cost to MSHA. If the product to be audited is sent to MSHA, then the approval holder would pay for sending the product to MSHA. In addition, if the audit takes place at a mutually agreeable site where there is not currently a product then the approval holder would also pay for shipping the product to the agreed upon site.

For applicants employing 500 or fewer workers, MSHA estimates that the Agency would annually audit 31 applications where the applicant would need to ship the product to the audit site. For applicants employing more than 500 workers, MSHA estimates that the Agency would annually audit 21 applications where the applicant would need to ship the product to the audit site.

MSHA estimates that to send a product, audited under §6.10(e), to the Agency would cost between $10 and $50, for an average cost of $30.

The Table below shows applicants' annual costs related to products audited under §6.10(e).

Parts	Annual # of applications where Audits will Cause Product to be Shipped by Applicant	Average Cost per Application for Products to be Shipped	Total Annual Costs
≤500 workers			

18 (IS) & (FRM)	24	$30	$ 720
19	1	$30	$ 30
20	1	$30	$ 30
23	1	$30	$ 30
27	1	$30	$ 30
35	3	$30	$ 90
Total	31		$ 930
>500 workers			
18 (IS) & (FRM)	16	$30	$ 480
22	1	$30	$ 30
23	1	$30	$ 30
35	3	$30	$ 90
Total	21		$ 630
All Applicants			
Total	52		$1,560

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.

As a result of MSHA reviewing non-MSHA product safety standards to determine if they are equivalent to MSHA's product approval requirements, the Agency estimates that it may need to make some minor equipment and/or supply (e.g. bottled gas) purchases. MSHA estimates that it would spend about $2,000 per year on such purchases.

15. Explain the reason for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-1.

RIN# AA87 – Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards is a proposed rule. Sections 6.10(a)(1) through (a)(3); 6.10(d) and 6.10(f) contain paperwork requirements in which we are seeking approval.

As a result, there has been an increase in the number of Respondents from 0 to 95. The increase is due to the number of anticipated applications under this rule.

There has been an increase in the number of responses from 0 to 105 due to the number of applications that would involve additional or repeat testing and/or applicants that would notify MSHA of product defects.

There has been an increase in the number of burden hours (0 to 29) due to the anticipated applications. Also, an increase in the burden cost ($0 to $44K) associated with submission of additional information, and/or the need for additional/repeat testing, and product auditing.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time

schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA has no plans to publish the information obtained through this proposed 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.

There are no forms or other publications associated with this collection.

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

There are no certification exceptions identified with this proposed information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1. 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 collection does not employ statistical methods.

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

- **Statistical methodology for stratification and sample section,**
- **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 frequent 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.