

## SUPPORTING STATEMENT

*Part 46 – Training, Training Plans, and Records*

This information collection request (ICR), OMB Control Number 1219-0131, was last approved on March 10, 2009. The provisions affected by this information collection are as follows:

<u>OMB Control</u>	<u>30 CFR Citations</u>	<u>Title</u>
1219-0131	§ 46.3(a), (c), (d), (e), (g), (h), & (i) § 46.9	Training Plans.  Records of Training under §§ 46.5, 46.6, 46.7, and 46.8.

## A. Justification

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

In 1999, the Mine Safety and Health Administration (MSHA) published its final rule for part 46 Training, Training Plans, and Records for miners working at shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mines, the operations addressed by Part 46 regulations. Between 1995 and 1999, miners in these operations worked 1.07 billion hours and experienced 130 fatal injuries. Between 2007 and 2011, miners at part 46 mines worked 848 million hours and experienced 40 deaths, about 21 percent fewer hours and about 69 percent fewer fatalities. From 1999 through 2011, MSHA promulgated no other significant safety regulations affecting this industry sector.

Training informs miners of safety and health hazards inherent in the workplace and enables them to identify and avoid such hazards. Training becomes even more important in light of certain conditions that can exist when production demands increase, such as: an influx of new and less experienced miners and mine operators; longer work hours to meet production demands; and increased demand for contractors who may be less familiar with the dangers on mine property.

MSHA's objective in these existing health and safety training requirements is to ensure that all miners receive the required training, which would result in a decrease in accidents, injuries, and fatalities. MSHA enforces training requirements at approximately 12,559 surface nonmetal mines and contractors, 10,577 of which are

covered by part 46 and 1,882 of which are covered by part 48. The information collection burden under part 48 is covered under OMB 1219-0009.

**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 records allow operators to show that miners have received the required training. MSHA inspectors use the records to determine that training required by the regulations has been provided.

**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.**

The training plans required by § 46.3 may include narratives, descriptions, lists and tables. The plans can be prepared using personal computers and word processing programs and submitted via e-mail or facsimile, and may be followed by a signed hard copy.

MSHA has developed and implemented an electronic on-line system (the MSHA Training Plan Advisor) for operators to prepare and submit training plans through the Internet. This system has been available for part 46 mining operations since September 2000. This is an optional method for the mining industry to prepare and file required training plans. The design of this system increases the likelihood that the plan will be complete, along with the potential to decrease the paperwork burden. This system is maintained on Department of Labor servers, and is accessed through MSHA's website at <http://www.msha.gov>, "Online Tools", then "Online Filing/Forms Homepage" or at "More Information" then "Part 46 Training".

Paragraph (a) of § 46.9 allows mine operators to record and certify training on MSHA Form 5000-23, or on a form that contains the required information. Form 5000-23 is the mandatory approved form under OMB collection 1219-0009, Certificate of Training (30 CFR 48.9 and 48.29). The burden for recording training under part 46, whether on Form 5000-23 or a separate form, is shown here and kept separate from the requirement under part 48 and OMB 1219-0009.

The Form 5000-23 is accessible for downloading on the MSHA website at <http://www.msha.gov/forms/elawsforms/5000-23.htm>.

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

No similar or duplicate information exists.

**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.**

This information does not have a significant impact on small businesses or other small entities. MSHA developed part 46 in partnership with industry for this specific industry segment because it is comprised primarily of small mines.

**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.**

MSHA believes that these information collection requirements are the minimum necessary to ensure that miners receive the required training. Reduction in these requirements may result in miners being unaware of unsafe and unhealthful conditions in the mine and failing to take appropriate measures, thus, jeopardizing their lives.

**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.**

Although there is no explicit requirement that a mine operator retain records for more than 3 years, the operator must maintain a current, approved training plan during the

entire time the mine is in operation. This 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 published a 60-day *Federal Register* notice on March 22, 2012 (77 FR 16862). MSHA received one comment on this information collection update supporting the continued collection of information. The commenter stated that “[t]he only way the Agency can perform follow up evaluations and to assure these protections are in place is to continue to collect the information as defined. The practical utility is to assure continued hazard training, a proven tool to reducing accidents and injuries at the workplace.”

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

MSHA does not 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.**

Operators are given no assurances of confidentiality; however, the records of an individual's training are covered by a Privacy Act Systems of Records Notice published in the *Federal Register* ( 67 FR 16913, April 8, 2002). These training plans are part of MSHA's Management Information System Labor/MSHA-3, Metal and Nonmetal Mine Safety and Health Management Information System. Computerized and manual records are indexed by mine identification number. Computer safeguards are as described in the National Bureau of Standards Booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974." Manual records are stored in locked files and are accessible only to authorized personnel during working hours.

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

There are no questions of a sensitive nature.

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

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

In 2010, there were about 10,577 mines including contractors covered by this rule: 9,756 employing 1-19 miners per operator and 821 employing 20 or more miners per operator. In the following calculations, the numbers are based on estimates from MSHA technical personnel who manage the Agency's training program requirements. In question 12, "mines" refer to both mine operators and contractors, unless otherwise indicated.

#### Section 46.3(a) – develop training plans

Section 46.3(a) requires mine operators to develop and implement a written training plan that contains effective training programs. MSHA estimates that, of the 10,577 affected mines covered by this information collection package, 30% (or 3,173 mines) will develop or revise training plans annually. Of these 3,173 mines, there are 2,927

plans for mines employing 1 to 19 miners and 246 plans for mines employing 20 or more miners. Of the number of training plans in each mine size category that will be developed or revised, we estimate that 50% will be done electronically (on-line e-plans).

MSHA estimates that a supervisor, earning \$62.60 per hour, takes 2 hours to develop or revise a plan for mines employing fewer than 20 persons, and 4 hours for mines employing 20 or more persons. MSHA further estimates that the time to develop or revise a plan will be reduced by 50% if done electronically.

Annual burden hours

$$\begin{array}{r} \text{Mines (1-19) (1,463 plans x 2 hours) + (1,464 e-plans x 1 hour) = } 4,390 \text{ hours} \\ \text{Mines (20+) (123 plans x 4 hours) + (123 e-plans x 2 hours) = } \underline{738 \text{ hours}} \\ \text{5,128 hours} \end{array}$$

Annual burden costs

$$5,128 \text{ hours x } \$ 62.60 = \text{ \$321,013}$$

Section 46.3(c) – send plans to MSHA and notify miners or miners’ representative

Paragraph (c) requires a plan that does not include the minimum information specified in paragraph (b) to be submitted to MSHA for approval. MSHA indicates that, on average, 350 mines submitted plans to MSHA annually under part 46. Approximately half (176) of these mines submitted plans by mail, while the remaining half submitted plans electronically, which does not incur additional burden hours or costs. MSHA estimates that a clerical worker, earning \$26.21 per hour, takes about 0.2 hour (12 minutes) to copy and mail a training plan to MSHA and to notify miners or a miners’ representative.

Annual burden hours

$$176 \text{ plans x } 0.2 \text{ hour} = 35 \text{ hours}$$

Annual burden hour costs

$$35 \text{ hours x } \$ 26.21 = \$917$$

Section 46.3(d) - provide training plan to miners’ representative or post plan

Paragraph (d) requires operators to provide miners' representatives with a copy of the training plan. At mines where no miners' representative has been designated, a copy of the plan must be posted at the mine or a copy must be provided to each miner. MSHA estimates for all 3,173 mines that develop or revise training plans annually that a clerical worker, earning \$ 26.21 per hour, takes 0.1 hour (6 minutes) to photocopy the plan and either deliver or post the plan.

Annual burden hours

$$3,173 \text{ plans x } 0.1 \text{ hour} = 317 \text{ hours}$$

Annual burden hour costs

317 hours x \$ 26.21 = \$8,309

Section 46.3(e) – miners’ or their representatives’ submission of written comments on training plan

This burden is not borne by the mine operator, but by miners or miners’ representatives. Section 46.3(e) provides that within 2 weeks following receipt or posting of the training plan, miners or their representatives may submit written comments on the plan to mine operators, or to the Regional Manager, as appropriate.

Over the last 3 years, MSHA has not received any written comments. In order to recognize that this may occur in the future, MSHA estimates that it could receive one written comment for each size category. MSHA estimates that a miner or miners’ representatives, earning \$26.84 per hour, would take 2 hours per affected mine to prepare written comments.

Annual burden hours

Mines (1-5)	1 mine x 2 hours	=	2 hours
Mines (6-19)	1 mine x 2 hours	=	2 hours
Mines (20+)	1 mine x 2 hours	=	<u>2 hours</u>
			6 hours

Annual burden hour costs

Mines (1-5)	2 hours x \$26.84 =	\$54
Mines (6-19)	2 hours x \$26.84 =	\$54
Mines (20+)	2 hours x \$26.84 =	<u>\$54</u>
		\$162

Any responses are much more likely to come from organizations representing miners; therefore, potential “individual or household” data was not disaggregated for data entry purposes.

Section 46.3(g) - provide miners or representative with copy of approved training plan or post plan

This provision requires the mine operator to provide the miners’ representative, if any, with a copy of the approved training plan within 1 week of approval. At mines where no miners’ representative has been designated, the operator must post a copy of the plan at the mine site or provide a copy to each miner.

The mines affected by this provision are those that submit plans to MSHA for approval under § 46.3(c). MSHA estimates that operators submit 350 training plans to MSHA for approval under § 46.3(c) and that these plans are approved. On average, a clerical worker, earning \$26.21 per hour, is estimated to take 0.1 hour (6 minutes) to photocopy and either post the approved training plan or deliver a copy to the miners’ representative.

Annual burden hours  
 350 plans x 0.1 hour = 35 hours

Annual burden hour costs  
 35 hours x \$ 26.21= \$917

Section 46.3(h) – write an appeal

Section 46.3(h) allows mine operators, contractors, miners, and miners' representatives to appeal a decision of the Regional Manager in writing to MSHA's Director for Educational Policy and Development. The Director would issue a decision on the appeal within 30 days after receipt of the appeal.

Over the last 3 years, MSHA has not received any appeals. In order to recognize that this may occur in the future, MSHA estimates that it could receive one appeal for each mine size category. MSHA estimates that a mine supervisor, earning \$62.60 per hour, would take 4 hours to write the appeal.

Annual burden hours  
 Mines (1-5) 1 appeal x 4 hours = 4 hours  
 Mines (6-19) 1 appeal x 4 hours = 4 hours  
 Mines (20+) 1 appeal x 4 hours = 4 hours  
 12 hours

Annual burden hour costs  
 Mines (1-5) 4 hours x \$ 62.60 = \$250  
 Mines (6-19) 4 hours x \$ 62.60 = \$250  
 Mines (20+) 4 hours x \$ 62.60 = \$250  
 \$750

Section 46.3(i) – make plans available for inspection

Section 46.3(i) requires mine operators and contractors to make available at the mine site a copy of the current training plan for inspection by MSHA and for examination by miners and their representatives. If the training plan is not maintained at the mine site, operators must have the capability to provide the plan within one business day upon request to MSHA, miners, or their representatives.

MSHA estimates that all 10,577 mines covered by part 46 would need to make plans available for inspection or examination, on average, once annually. MSHA estimates that a clerical worker, earning \$26.21 per hour, would take 0.1 hour (6 minutes) to retrieve, photocopy, and re-file the training plan.

Annual burden hours  
 10,577 mines x 0.1 hour = 1,058 hours



Annual burden hour costs

1,058 hours x \$ 26.21 = \$27,730

Section 46.5(a) New miner training – number of training sessions

Paragraph (a) of § 46.5 requires mine operators to provide each new miner with no less than 24 hours of training. Miners who have not received the full 24 hours of new miner training must work where an experienced miner can observe that the new miner is working in a safe and healthful manner.

The mines affected annually by this provision are: 1,756 mines that employ 1 to 19 miners and 148 mines that employ 20 or more miners.

MSHA estimates that the average number of training sessions the mine supervisor would provide annually is: 1 session for mines that employ 1 to 19 miners and 3 sessions for mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5)	1,756 mines x 1 session =	1,756 sessions
Mines (20+)	148 mines x 3 sessions =	<u>444 sessions</u>
		2,200 sessions

New miner training - offsite training

Additionally, the Agency estimates that part of new miner training would be provided off-site by a third party. Operators would pay the third party for providing this part of the new miner training.

MSHA estimates that 4,569 miners receive off-site training.

Number of Training Sessions

4,569 miners x 1 session =	4,569 sessions
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Section 46.6(a) Newly hired experienced miner training - number of training sessions

Section 46.6(a) requires operators to provide each newly hired experienced miner with certain specified training before the miner begins work. The mines affected annually by this provision in each size category are: 3,541 mines that employ 1 to 5 miners; 1,922 mines that employ 6 to 19 miners; and 460 mines that employ 20 or more miners.

For each size category, MSHA estimates that the average number of training sessions the mine supervisor would provide annually is: 1 session for mines that employ 1 to 5 miners; 2 sessions for mines that employ 6 to 19 miners; and 4 sessions for mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5)	3,541 mines x 1 session =	3,541 sessions
Mines (6-19)	1,922 mines x 2 sessions =	3,844 sessions
Mines (20+)	460 mines x 4 sessions =	<u>1,840 sessions</u>
		9,225 sessions

Section 46.7(a) New task training - number of training sessions

Section 46.7(a) requires that before a miner performs a new task for which the miner has no experience, the operator must train the miner in the safety and health aspects and safe work procedures specific to that task. The mines affected by this provision in each size category are: 6,007 mines that employ 1 to 5 miners; 3,261 mines that employ 6 to 19 miners; and 780 mines that employ 20 or more miners.

For each size category, the average number of training sessions that the mine supervisor will give annually per mine is: 5 sessions for mines that employ 1 to 5 miners; 10 sessions for mines that employ 6 to 19 miners; and 20 sessions for mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5)	6,007 mines x 5 sessions =	30,035 sessions
Mines (6-19)	3,261 mines x 10 sessions =	32,610 sessions
Mines (20+)	780 mines x 20 sessions =	<u>15,600 sessions</u>
		78,245 sessions

Section 46.7(b) Regularly-assigned task training - number of training sessions

Section 46.7(b) requires that if changes have occurred in a miner's regularly assigned task that affects the health and safety risks encountered by the miner, the operator must provide the miner with training that addresses the changes. The mines affected by this provision in each size category are: 6,007 mines that employ 1 to 5 miners; 3,261 mines that employ 6 to 19 miners; and 780 mines that employ 20 or more miners.

For each size category, the average number of training sessions that the mine supervisor will give annually per mine are: 5 sessions for mines that employ 1 to 5 miners; 10 sessions for mines that employ 6 to 19 miners; and 20 sessions for mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5)	6,007 mines x 5 sessions =	30,035 sessions
Mines (6-19)	3,261 mines x 10 sessions =	32,610 sessions
Mines (20+)	780 mines x 20 sessions =	<u>15,600 sessions</u>
		78,245 sessions

Section 46.8(a) Annual refresher training - number of training sessions

Section 46.8(a) requires that the operator provide each miner with no less than 8 hours of refresher training, at least every 12 months. The mines affected by this provision in each size category are: 9,756 mines that employ 1 to 19 miners and 821 mines that employ 20 or more miners.

For each size category, MSHA estimates that the average number of training sessions the mine supervisor would provide annually is: 1 session for mines that employ 1 to 19 miners and 2 sessions for mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5)	9,756 mines x 1 session =	9,756 sessions
Mines (20+)	821 mines x 2 sessions =	<u>1,642 sessions</u>
		11,398 sessions

Section 46.9 Records of training

Section 46.9 requires operators, upon completion of each training program, to record and certify that the miner has completed the training on MSHA Form 5000-23, (Form 5000-23, which is the mandatory approved form under OMB 1219-0009, Certificate of Training (30 CFR 48.9 and 48.29), or on a form that contains the required information. For all records required to be kept for training under §§ 46.5, 46.6, 46.7, 46.8, and 46.11, MSHA estimates that, for each mine, a mine supervisor, earning \$ 62.60 per hour, takes 0.08 hour (5 minutes) to record and certify training records for each session. In addition, MSHA estimates that it takes a clerical worker, earning \$ 26.21 per hour, 0.05 hour (3 minutes) to copy and distribute the certificates for each training session.

The numbers in the calculations below come from the number of sessions in each of the sections for training (§§ 46.5, 46.6, 46.7, 46.8, and 46.11) specified above and below in question 12.

Number of Training Sessions

Training for § 46.5 (on-site)	2,200 sessions
Training for § 46.5 (off-site)	4,569 sessions
Training for § 46.6	9,225 sessions
Training for § 46.7(a)	78,245 sessions
Training for § 46.7(b)	78,245 sessions
Training for § 46.8	11,398 sessions
Training for § 46.11	<u>823,650 sessions</u>
	1,007,532 sessions

Annual burden hours

1,007,532 sessions x 0.08 hour of supervisor time =	80,603 hours
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1,007,532 sessions x 0.05 hour of clerical time =	<u>50,377 hours</u>
Total § 46.9 Burden Hours	130,980 hours

Annual burden Hour Costs

80,603 hours x \$62.60 (supervisor) =	\$5,045,748
50,377 hours x \$26.21 (clerical) =	<u>\$1,320,381</u>
Total § 46.9 Burden Hour Costs	\$6,366,129

Section 46.11 Site-specific hazard awareness training – number of training sessions

Section 46.11(a) requires operators to provide site-specific hazard training to specific persons before they are exposed to mine hazards. Persons who are required to have training include: scientific workers; delivery workers and customers; occasional, short-term maintenance or service workers who do not work at the mine site on a continuing basis, or construction workers or employees of independent contractors who are not miners under § 46.2; and outside vendors, visitors, office or staff personnel. This training is also required for miners, such as drillers or blasters, who move from one mine to another mine while remaining employed by the same production-operator or independent contractor. There is little or no preparation for this type of training because the miner giving the training is only explaining or showing potential mine hazards to the person(s) being trained.

For each mine-size category, MSHA estimates that the average number of training sessions the miner would provide annually per mine are: 50 sessions for mines that employ 1 to 5 miners; 100 sessions for mines that employ 6 to 19 miners; and 200 sessions for mines that employ 20 or more miners. The number of mines affected by this provision in each mine-size category is: 6,323 mines that employ 1 to 5 miners; 3,433 mines that employ 6 to 19 miners; and 821 mines that employ 20 or more miners.

Number of Training Sessions

Mines (1-5) 6,323 mines x 50 sessions =	316,150 sessions
Mines (6-19) 3,433 mines x 100 sessions =	343,300 sessions
Mines (20+) 821 mines x 200 sessions =	<u>164,200 sessions</u>
	823,650 sessions

Summary of Burden Hours and Burden Hour Costs from Question 12

Section	Annual Respondents	Annual Responses	Annual Burden Hours	Annual Burden Hour Costs
46.3(a)	3,173	3,173	5,128	\$321,013
46.3(c)	350	350	35	\$917
46.3(d)	3,173	3,173	317	\$8,308
46.3(e)	3	3	6	\$162
46.3(g)	350	350	35	\$917
46.3(h)	3	3	12	\$750
46.3(i)	10,577	10,577	1,057	\$27,704
46.9	10,577	1,007,532	130,980	\$6,366,103
Unduplicated Total	10,577	1,025,161	137,570	\$6,725,901

**13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden 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 collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or**

**keep records for the government, or (4) as part of customary and usual business or private practices.**

Capital and Start-up Costs: N/A

Operating and Maintenance Costs:

Section 46.3(c) – provide training plan to MSHA

A plan that does not include the minimum information specified in § 46.3(b) must be submitted to and approved by MSHA. Approximately, half of the 350 plans are submitted by mail. MSHA estimates that 176 mines are affected annually. MSHA estimates that a plan is 6 pages, copy costs are \$0.15 per page, and postage is \$1.00.

Annual Costs

176 training plans x ((6 pages x \$0.15) + \$1.00) = \$334

Section 46.3(d) – provide training plans to miners' representative or post plan

The operator must provide the miners' representative with a copy of the training plan. At mines where no miners' representative has been designated, a copy of the plan must be posted at the mine or a copy must be provided to each miner. MSHA estimates that 3,173 mines are affected by this provision annually. A plan is estimated to have 6 pages and copy costs are \$0.15 per page.

Annual Costs

3,173 training plans x (6 pages x \$0.15) = \$2,856

Section 46.3(e) – miners' or their representatives' submission of written comments on plans

Within 2 weeks following the receipt or posting of the training plan, miners or their representatives may submit written comments on the plan to the operator, or to MSHA. Over the last 3 years, MSHA has not received any written comments. In order to recognize that this may occur in the future, MSHA estimates that it could receive one written comment for each size category. Postage costs to deliver written comments are estimated at \$1.00.

Annual Costs

Mines (1-5)	1 mine x \$1.00 =	\$1
Mines (6-19)	1 mine x \$1.00 =	\$1
Mines (20+)	1 mine x \$1.00 =	<u>\$1</u>
		\$3

As with calculating burden hours, all costs are assumed to be borne by organizations representing miners for data entry purposes.

Section 46.3(g) – provide miners or representative with copy of approved training plan or post plan

This provision requires the operator to provide the miners' representative, if any, with a copy of the approved training plan within 1 week of approval. At mines where no miners' representative has been designated, the operator must post a copy of the plan at the mine site or provide a copy to each miner within 1 week of approval.

The mines affected by this provision are those that submit plans to MSHA for approval under § 46.3(c). MSHA estimates that operators submit 350 training plans to MSHA for approval under § 46.3(c). On average, a plan is estimated to be 6 pages, copying costs are \$0.15 per page, and postage is \$1.00.

Annual Costs

$$350 \text{ mines} \times ((6 \text{ pages} \times \$0.15) + \$1.00) = \$665$$

Section 46.3(h) – write an appeal

An operator may appeal an MSHA decision concerning an approved training plan. Over the last 3 years, MSHA has not received any appeals. In order to recognize that this may occur in the future, MSHA estimates that it could receive one appeal for each size category. The costs for postage to mail the written appeal are estimated to be \$1.00.

Annual Costs

Mines (1-5)	1 mine x \$1.00 =	\$1
Mines (6-19)	1 mine x \$1.00 =	\$1
Mines (20+)	1 mine x \$1.00 =	<u>\$1</u>
		\$3

Section 46.3(i) – make available training plan for inspection

The operator must make available a copy of the current training plan for inspection by MSHA and for examination by miners and their representatives. MSHA estimates that all 10,577 mines covered by part 46 would need to make plans available for inspection or examination, on average, once annually. The copying costs are \$0.15 per page and 6 pages are copied.

Annual Costs

$$10,577 \text{ mines} \times (6 \text{ pages} \times \$0.15) = \$9,519$$

Section 46.9 Records of Training

Under each training provision (30 CFR §§ 46.5, 46.6, 46.7, 46.8, and 46.11), a clerical person makes 2 copies for each training record. Copies are \$0.15 per page and the record is one page.

Annual Costs

1,007,532 sessions x \$0.15 x 1 page x 2 copies =

\$302,260

Summary of Burden Costs from Question 13

Section	Annual Burden Costs
46.3(c)	\$334
46.3(d)	\$2,856
46.3(e)	\$3
46.3(g)	\$665
46.3(h)	\$3
46.3(i)	\$9,519
46.9	\$302,260
Total Cost	\$315,640

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

MSHA training specialists review and approve any training plans submitted under the part 46 rule. On average, 350 plans were submitted annually. Of these, 323 plans were submitted from operations employing 1 to 19 miners and 27 from operations employing 20 or more miners. Also, MSHA estimates that a training specialist spends an average of 2 hours to review plans submitted by operations employing 1 to 19 miners and 4 hours for operations employing 20 or more miners. For 2011, the average grade and salary of a training specialist is GS 12/5, at \$68,310 per annum or \$32.73 per hour.

Mines (1-19): 323 plans x 2 hours x \$32.73 =	\$21,144
Mines (20+): 27 plans x 4 hours x \$32.73 =	<u>\$3,535</u>
	\$24,679

Additionally, MSHA inspectors spend time at the mine site checking training records and plans. Of the number of affected mines: 6,323 operations employ 1 to 5 miners; 3,433 operations employ 6 to 19 miners; and 821 operations employ 20 or more miners. On average, MSHA estimates that the time an inspector spends annually to review part 46 training records and plans per mine visit is 15 minutes (0.25 hour) at operations employing 1 to 5 miners, 30 minutes (0.5 hour) at operations employing 6 to 19 miners,



and 1 hour at operations employing 20 or more miners. For 2011, the average grade and salary of an inspector is GS 12/1, at \$60,274 per annum or \$28.88 per hour.

Mines (1-5): 6,323 mines x 0.25 hour x \$28.88 =	\$45,652
Mines (6-19): 3,433 mines x 0.5 hour x \$28.88 =	\$49,573
Mines (20+): 821 mines x 1 hour x \$28.88 =	<u>\$23,710</u>
	\$118,935

Total Cost to the Federal Government \$143,613

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

There are no program changes. The reported number of respondents has increased because the previous Supporting Statement erroneously excluded 50% of covered mines and contractors on grounds that 50% of the covered entities were already in compliance with part 46 before it was promulgated. The reported responses, hours, and costs have decreased because the previous Supporting Statement erroneously included responses, hours, and costs associated with training and preparation for training, which are not reportable as information collection.

<b>Respondents:</b>	Increase of 4,252 (from 6,325 to 10,577)
<b>Responses:</b>	Decrease of 52,135 (from 1,077,296 to 1,025,161)
<b>Hours:</b>	Decrease of 158,229 (from 295,799 to 137,570)
<b>Costs:</b>	Decrease of \$177,993 (from \$493,634 to \$315,641)

**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 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.**

MSHA has no forms associated with this collection of information on which to display an expiration date.

**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 information collection.

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

This information collection does not employ statistical methods.

## ATTACHMENTS

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carryout its duty in protecting the safety and health of miners as follows:

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. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

Section 115 of the Mine Act, 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carryout its duty with respect in protecting the safety and health of miners through requirements for training as follows:

(a) Each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary. The Secretary shall promulgate regulations with respect to such health and safety training programs not more than 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977. Each training program approved by the Secretary shall provide as a minimum that--

(1) new miners having no underground mining experience shall receive no less than 40 hours of training if they are to work underground. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device and use of respiratory devices, hazard recognition, escapeways, walk around training, emergency procedures, basic ventilation, basic roof control, electrical hazards, first aid, and the health and safety aspects of the task to which he will be assigned;

(2) new miners having no surface mining experience shall receive no less than 24 hours of training if they are to work on the surface. Such training shall include instruction in the statutory rights of miners and their representatives under this Act, use of the self-rescue device where appropriate and use of respiratory devices where appropriate, hazard recognition, emergency procedures, electrical hazards, first aid, walk around training and the health and safety aspects of the task to which he will be assigned;

(3) all miners shall receive no less than eight hours of refresher training no less frequently than once each 12 months, except that miners already employed on the effective date of the Federal Mine Safety and Health Amendments Act of 1977 shall receive this refresher training no more than

90 days after the date of approval of the training plan required by this section;

(4) any miner who is reassigned to a new task in which he has had no previous work experience shall receive training in accordance with a training plan approved by the Secretary under this subsection in the safety and health aspects specific to that task prior to performing that task;

(5) any training required by paragraphs (1), (2) or (4) shall include a period of training as closely related as is practicable to the work in which the miner is to be engaged.

(b) Any health and safety training provided under subsection (a) shall be provided during normal working hours. Miners shall be paid at their normal rate of compensation while they take such training, and new miners shall be paid at their starting wage rate when they take the new miner training. If such training shall be given at a location other than the normal place of work, miners shall also be compensated for the additional costs they may incur in attending such training sessions.

(c) Upon completion of each training program, each operator shall certify, on a form approved by the Secretary, that the miner has received the specified training in each subject area of the approved health and safety training plan. A certificate for each miner shall be maintained by the operator, and shall be available for inspection at the mine site, and a copy thereof shall be given to each miner at the completion of such training. When a miner leaves the operator's employ, he shall be entitled to a copy of his health and safety training certificates. False certification by an operator that training was given shall be punishable under section 110(a) and (f); and each health and safety training certificate shall indicate on its face, in bold letters, printed in a conspicuous manner the fact that such false certification is so punishable.

(d) The Secretary shall promulgate appropriate standards for safety and health training for coal or other mine construction workers.

(e) Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine.

Title 30 Code of Federal Regulations, Part 46

Section 46.3 Training plans.

(a) You must develop and implement a written plan, approved by us under either paragraph (b) or (c) of this section, that contains effective programs for training new miners and newly hired experienced miners, training miners for new tasks, annual refresher training, and site-specific hazard awareness training.

\* \* \*

(c) A plan that does not include the minimum information specified in paragraphs (b)(1) through (b)(5) of this section must be submitted to and approved by the Regional Manager, Educational Field Services Division, or designee, for the region in which the mine is located. You also may voluntarily submit a plan for Regional Manager approval. You must notify miners or their representatives when you submit a plan for Regional Manager approval. Within two weeks of receipt or posting of the plan, miners and their representatives may also request review and approval of the plan by the Regional Manager and must notify the production-operator or independent contractor of such request.

(d) You must provide the miners' representative, if any, with a copy of the plan at least 2 weeks before the plan is implemented or, if you request MSHA approval of your plan, at least two weeks before you submit the plan to the Regional Manager for approval. At mines where no miners' representative has been designated, you must post a copy of the plan at the mine or provide a copy to each miner at least 2 weeks before you implement the plan or submit it to the Regional Manager for approval.

(e) Within 2 weeks following the receipt or posting of the training plan under paragraph (d) of this section, miners or their representatives may submit written comments on the plan to you, or to the Regional Manager, as appropriate.

\* \* \* \* \*

(g) You must provide the miners' representative, if any, with a copy of the approved plan within one week after approval. At mines where no miners' representative has been designated, you must post a copy of the plan at the mine or provide a copy to each miner within one week after approval.

(h) If you, miners, or miners' representatives wish to appeal a decision of the Regional Manager, you must send the appeal, in writing, to the Director for Educational Policy and Development, MSHA, 1100 Wilson Boulevard, Room 2100, Arlington, Virginia 22209-3939, within 30 calendar days after notification of the Regional Manager's decision. The Director will issue a final decision of the Agency within 30 calendar days after receipt of the appeal.

(i) You must make available at the mine a copy of the current training plan for inspection by us and for examination by miners and their representatives. If the training plan is not maintained at the mine, you must have the capability to provide the plan within one business day upon request by us, miners, or their representatives.

\* \* \* \* \*

#### Section 46.5 New miner training.

(a) Except as provided in paragraphs (f) and (g) of this section, you must provide each new miner with no less than 24 hours of training as prescribed by paragraphs (b), (c), and (d). Miners who have not yet received the full 24 hours of new miner training must work where an experienced miner can observe that the new miner is performing his or her work in a safe and healthful manner.

\* \* \* \* \*

#### Section 46.6 Newly hired experienced miner training.

(a) Except as provided in paragraph (f) of this section, you must provide each newly hired experienced miner with training as prescribed by paragraphs (b) and (c).

\* \* \* \* \*

#### Section 46.7 New task training.

(a) You must provide any miner who is reassigned to a new task in which he or she has no previous work experience with training in the health and safety aspects of the task to be assigned, including the safe work procedures of such task, information about the physical and health hazards of chemicals in the miner's work area, the protective measures a miner can take against these hazards, and the contents of the mine's HazCom program. This training must be provided before the miner performs the new task.

(b) If a change occurs in a miner's assigned task that affects the health and safety risks encountered by the miner, you must provide the miner with training under paragraph (a) of this section that addresses the change.

\* \* \* \* \*

#### Section 46.8 Annual refresher training.

(a) You must provide each miner with no less than 8 hours of annual refresher training—

(1) No later than 12 months after the miner begins work at the mine, or no later than March 30, 2001, whichever is later; and

(2) Thereafter, no later than 12 months after the previous annual refresher training was completed.

\* \* \* \* \*

#### Section 46.9 Records of training.

(a) You must record and certify on MSHA [Form 5000-23](#), or on a form that contains the information listed in paragraph (b) of this section, that each miner has received training required under this part.

(b) The form must include:

- (1) The printed full name of the person trained;
- (2) The type of training, the duration of the training, the date the training was received, the name of the competent person who provided the training;
- (3) The name of the mine or independent contractor, MSHA mine identification number or independent contractor identification number, and location of training (if an institution, the name and address of the institution).
- (4) The statement, "False certification is punishable under § 110(a) and (f) of the Federal Mine Safety and Health Act," printed in bold letters and in a conspicuous manner; and
- (5) A statement signed by the person designated in the MSHA-approved training plan for the mine as responsible for health and safety training, that states "I certify that the above training has been completed."

(c) You must make a record of training under paragraphs (b)(1) through (b)(4) of this section.

- (1) For new miner training under § [46.5](#), no later than
  - (i) when the miner begins work at the mine as required under § 46.5(b);
  - (ii) 60 calendar days after the miner begins work at the mine as required under § 46.5(c); and
  - (iii) 90 calendar days after the miner begins work at the mine as required under § 46.5(d), if applicable.
- (2) For newly hired experienced miner training under § [46.6](#), no later than
  - (i) when the miner begins work at the mine; and
  - (ii) 60 calendar days after the miner begins work at the mine.
- (3) Upon completion of new task training under § [46.7](#);
- (4) After each session of annual refresher training under § [46.8](#); and
- (5) Upon completion by miners of site-specific hazard awareness training under § [46.11](#).

(d) You must ensure that all records of training under paragraphs (c)(1) through (c)(5) of this section are certified under paragraph (b)(5) of this section and a copy provided to the miner

- (1) Upon completion of the 24 hours of new miner training;
- (2) Upon completion of newly hired experienced miner training;
- (3) At least once every 12 months for new task training, or upon request by the miner, if applicable;

- (4) Upon completion of the 8 hours of annual refresher training; and
- (5) Upon completion by miners of site-specific hazard awareness training.

\* \* \*

(f) When a miner leaves your employ, you must provide each miner with a copy of his or her training records and certificates upon request.

(g) You must make available at the mine a copy of each miner's training records and certificates for inspection by us and for examination by miners and their representatives. If training certificates are not maintained at the mine, you must be able to provide the certificates upon request by us, miners, or their representatives.

(h) You must maintain copies of training certificates and training records for each currently employed miner during his or her employment, except records and certificates of annual refresher training under § [46.8](#), which you must maintain for only two years. You must maintain copies of training certificates and training records for at least 60 calendar days after a miner terminates employment.

(i) You are not required to make records under this section of site-specific hazard awareness training you provide under § [46.11](#) of this part to persons who are not miners under § [46.2](#). However, you must be able to provide evidence to us, upon request, that the training was provided, such as the training materials that are used; copies of written information distributed to persons upon their arrival at the mine; or visitor log books that indicate that training has been provided.

\* \* \* \* \*

#### Section 46.11 Site-specific hazard awareness training.

(a) You must provide site-specific hazard awareness training before any person specified under this section is exposed to mine hazards.

\* \* \* \* \*