

Supporting Statement
Ground Control for Surface Coal Mines and Surface Work Areas of
Underground Coal Mines

| <u>OMB Control</u> | <u>30 CFR Citations</u> | <u>Title</u> |
|---------------------------|--------------------------------|--|
| 1219-0026 | § 77.1000-1 | Filing of plan required by 77.1000 – Highwalls, pits and spoil banks; plans. |

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.

Section 103(a) of the Federal Mine Safety & Health Act of 1977 (30 U.S.C. 813(a)); the Mine Act) requires that frequent inspections and investigations in coal or other mines shall be made each year for the purposes of, among other things, gathering information with respect to mandatory health or safety standards and determining whether an imminent danger exists. Section 103 (h) of the Mine Act requires that every operator of a coal or other mine establish and maintain records, make reports, and provide required information to the Secretary (30 U.S.C. 813 (h)).

Each operator of a surface coal mine is required under 30 CFR 77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and which will ensure safe working conditions. The mine operator is required by § 77.1000-1 to file the ground control plan under § 77.1000 for highwalls, pits and spoil banks with the appropriate District Manager. The mining methods employed by the operator are selected to ensure highwall, pit, and spoil bank stability. In the event of a highwall failure or material dislodgment, there may be very little time to escape possible injury; therefore, preventive measures must be taken. Each plan is based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. The plan is used to show how the mine operator will maintain safe conditions around the highwalls, pits, and spoil banks. Each plan is reviewed by MSHA to ensure that highwalls, pits, and spoil banks are maintained in a safe condition through the use of sound engineering design.

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 information contained in ground control plans is used by MSHA to ensure that mine operators are maintaining the highwalls, pits, and spoil banks of surface coal mines so that a safe working environment is provided for mine employees, management, and others who visit the mine property.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

No improved information technology has been identified that would reduce the burden; however, in order to comply with the Government Paperwork Elimination Act mine operators may develop ground control plans using computer-generated CAD drawings and retain the records using whatever method they choose, which may include utilizing computer technology. However, the plans are generally mailed because they're not conducive to electronic transmission.

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.

MSHA knows of no other federal, state, or local agency that has a similar paperwork requirement relating to ground control that would duplicate this requirement. All other agencies that inspect coal mines accept and use the ground control plans required by MSHA.

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. However, MSHA has made available on our web-site at <http://www.msha.gov/> various sources of information, such as "Technical Assistance," "Best Practices," and an "Accident Prevention" site. To assist with compliance, these provide tips and general information on a number of various topics; including a Program Information Bulletin No. P11-02 - Filing of Ground Control Plans for Surface Coal Mines; a Template for Submittal and Evaluation of Ground Control Plans; and Guidelines for Submittal and Evaluation of Ground Control Plans.

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 estimates that there are approximately 943 active mines that have approved ground control plans. Such plans reflect Mine Act requirements of mine operators to

provide a safe and healthful work environment for employees. If the plans were not submitted, MSHA would not be able to effectively determine whether mine operators are taking the appropriate actions to maintain stable highwalls, pits, and spoil banks in order to protect the health and safety of miners.

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 secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This collection of information is consistent with the requirements in 5 CFR 1320.5

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with 5 CFR 1320.8(d), MSHA will publish the proposed information collection requirements in the Federal Register, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments.

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

MSHA does not provide payment or gifts to the respondents identified by this collection.

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

No records requiring confidentiality are required.

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

There are no questions of a sensitive nature.

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

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

*** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

*** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

Hour Burden

Based on 2010 mine plan approval data, MSHA estimates that it will receive approximately 512 new ground control plans and 332 revised plans per year. MSHA estimates that a mine engineer will take approximately 8 hours to develop a new control plan and approximately 5 hours to draft a revised plan and to submit a plan for approval.

$$\begin{array}{rcl} 512 \text{ new plans} \times 8 \text{ hours/plan} & = & 4,096 \text{ hours} \\ 332 \text{ revised plans} \times 5 \text{ hours/plan} & = & \underline{1,660 \text{ hours}} \\ & & 5,756 \text{ hours} \end{array}$$

MSHA estimates that approximately 0.1 hour of clerical time is required for each plan for copying, filing, mailing, etc.

$$\begin{array}{rcl} 512 \text{ new plans} \times 1 \text{ hour/plan} & = & 51 \text{ hours} \\ 332 \text{ revised plans} \times 1 \text{ hour/plan} & = & \underline{33 \text{ hours}} \\ & & 84 \text{ hours} \end{array}$$

$$\textbf{Total Burden Hours} \quad \quad \quad = \quad \textbf{5,840 hours}$$

Hour Burden Cost

Hourly pay rates used are based upon salary tables from the U.S. Coal Mine Salaries, Wages, & Benefits – 2010 Survey Results. The hour burden cost associated with the development of new and revised ground control plans is based on \$57.53 per hour for a mining engineer and \$26.44 per hour for clerical support. The total burden hour cost for new and revised plans is as follows:

$$5,756 \text{ hours} \times \$57.53 \text{ per hour (estimated salary of a mining engineer)} = \$331,143$$

The hour burden costs associated with copying, filing, and mailing new and revised ground control plans is as follows:

$$84 \text{ hours} \times \$26.44 \text{ per hour (estimated salary of a clerical worker)} = \$2,221$$

$$\textbf{Total Burden Hour Cost} \quad \quad \quad = \quad \quad \textbf{\$333,364}$$

Summary of Burden Hours and Costs

| Section | Annual Respondents | Annual Responses | Annual Burden Hours | Annual Burden Costs |
|--|--------------------|------------------|---------------------|---------------------|
| 77.1000-1: Filing of plan required by 77.1000 – Highwalls, pits and spoil banks; plans | 844 | 844 | 5,840 | \$333,364 |
| Total | 844 | 844 | 5,840 | \$333,364 |

TOTAL BURDEN HOURS = 5,840

TOTAL COST OF BURDEN HOURS = \$333,364

TOTAL RESPONSES = 844

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.**

MSHA estimates that the only cost associated with submitting ground control plans is

the cost of copying and mailing the plans. This cost is calculated as follows:

$$844 \text{ plans and revisions} \times (6 \text{ pages} \times \$0.15/\text{page} + \$2.47 \text{ postage}) = \$2,844$$

$$\text{Total Burden Cost} = \$2,844$$

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 estimates that approximately 512 new ground control plans and 332 revisions to existing ground control plans were filed with MSHA in calendar year 2010. MSHA estimates that it will take a Safety Specialist one-half hour to review an average plan at the 2010 wage rate (including benefits) of \$61.32 per hour for GS 12.

$$\begin{aligned} 512 \text{ new plans} \times 0.5 \text{ hours} \times \$61.32/\text{hour} &= \$15,698 \\ 332 \text{ revised plans} \times 0.5 \text{ hours} \times \$61.32/\text{hour} &= \underline{\$10,179} \end{aligned}$$

$$\text{Annualized Cost to the Federal Government} = \$25,877$$

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

Respondents: There has been an increase of 18 respondents (from 925 to 943) due to a change in the number of surface coal mines requiring a ground control plan to be filed with MSHA.

Responses: There has been an increase of 517 responses (from 327 to 844). MSHA believes this reported increase is due to MSHA's main office having improved its data collection in recent years concerning the number and type of ground control plans submitted by mine operators to the various district offices. Previously, these data were optionally submitted by the district offices to MSHA's central database; submission of these data by district offices is now required by headquarters.

Burden Hours: There has been an increase of 2,999 hours (from 2,841 to 5,840). Because of this significant increase in the estimated number of responses, there is also a significant increase in the estimate of burden hours. In addition, MSHA reduced its estimate of clerical time for copying, filing, and mailing plans from 1.0 hour to 0.1 hour for the burden hour estimate. MSHA determined that the 2009 estimate of an hour to copy, file, and mail a 6-page plan was an over-estimate.

Annual Cost Burden: There has been an increase of \$2,324 (from \$520 to \$2,844). MSHA increased its estimate of the cost burden to submit plans by including copying

costs in addition to postage.

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.

The results from the information gathered from this collection will not be published.

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 Submissions," of OMB Form 83-I.

There are no certification exceptions identified with this information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection methods 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.

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

- * Statistical methodology for stratification and sample selection,**
- * Estimation procedure,**
- * Degree of accuracy needed for the purpose described in the justification,**
- * Unusual problems requiring specialized sampling procedures, and**
- * Any use of periodic (less 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 test may be submitted for approval separately or in combination with the main collection of information.

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

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

Federal Mine Safety & Health Act of 1977,
Public Law 91-173,
as amended by Public Law 95-164

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 103. (a) Authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations in coal or other mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this Act. In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person, except that in carrying out the requirements of clauses (1) and (2) of this subsection, the Secretary of Health, Education, and Welfare may give advance notice of inspections. In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and of each surface coal or other mine in its entirety at least two times a year. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this Act, and his experience under this Act and other health and safety laws. For the purpose of making any inspection or investigation under this Act, the Secretary, or the Secretary of Health, Education, and Welfare, with respect to fulfilling his responsibilities under this Act, or any authorized representative of the Secretary or the Secretary of Health, Education, and Welfare, shall have a right of entry to, upon, or through any coal or other mine.

* * *

Section 103 (h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. 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.

Part 77 – Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of
Underground Coal Mines
30 CFR Subpart K – Ground Control

§ 77.1000 - Highwalls, pits and spoil banks; plans.

Each operator shall establish and follow a ground control plan for the safe control of all highwalls, pits and spoil banks to be developed after June 30, 1971, which shall be consistent with prudent engineering design and will insure safe working conditions. The mining methods employed by the operator shall be selected to insure highwall and spoil bank stability.

§ 77.1000-1 Filing of plan.

The operator shall file a copy of such plan, and revisions thereof, with the MSHA Coal Mine Safety and Health district office for the district in which the mine is located, and shall identify the name and location of the mine; the Mine Safety and Health Administration identification number if known; and the name and address of the mine operator.