

SUPPORTING STATEMENT

30 C.F.R. § 40.3, 40.4, and 40.5, Representative of Miners

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.

The Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801, et. seq., (Mine Act) requires the Secretary of Labor to exercise many of her duties under the Act in cooperation with miners' representatives. The Act also establishes miners' rights which may be exercised through a representative. Title 30, C.F.R. Part 40 contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners. The regulations define what is meant by "representative of miners," a term that is not defined in the Mine Act.

Title 30, C.F.R. § 40.3 requires the following information to be filed with MSHA: (1) the name, address and telephone number of the representative or organization that will serve as representative; (2) the name and address of the mine operator; the name, address and MSHA ID number, if known, of the mine; (3) a copy of the document evidencing the designation of the representative; (4) a statement as to whether the representative will serve for all purposes of the Act, or a statement of the limitation of the authority; (5) the name, address and telephone number of an alternate; (6) a statement that all the required information has been filed with the mine operator; and (7) certification that all information filed is true and correct followed by the signature of the miners' representative. Title 30, C.F.R. § 40.4 requires that a copy of the notice designating the miners' representative be posted by the mine operator on the mine bulletin board and maintained in current status. Once the required information has been filed, a representative retains his or her status unless and until his or her designation is terminated. Under 30 C.F.R. § 40.5, a representative who wishes to terminate his or her designation must file a written statement with the appropriate district manager terminating his or her designation.

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 submitted to MSHA is used by MSHA to identify the representative of miners for all purposes provided for in the Mine Act. Information submitted in compliance with Part 40 requirements also serves to notify both the operator and individual miners of the identity of the miners' representative. Notification of the operator is important because under the Mine Act one miners' representative who is an employee of the operator shall suffer no loss of pay during his or her participation in an inspection. Posting of the designation at the mine also ensures that miners are notified of the identity of the miners' representative(s) at the mine, so that miners who wish to exercise their individual rights through the miners' representative know who they should contact.

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. Miners' representatives may submit the necessary information using whatever method they chose, which may include utilizing computer technology.

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.

A representative of miners is required to file the necessary information only once with the District Manager in the district in which the mine is located. Copies of the information must be provided to the operator of the affected mine, and a copy must also be posted by the mine operator on the mine bulletin board. MSHA does not know the identity of miners' representatives until the person seeking to be designated as a representative files the necessary information. There is no similar information available.

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.

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

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The person seeking to be designated as a representative of miners files the information required under Part 40 with MSHA and the affected mine operator. Once the necessary information has been filed, a miners' representative retains his or her status until he or she files a statement with the district manager terminating his or her designation.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;

- requiring respondents to submit more than an original and two copies of any document;

- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This collection of information is consistent with the guidelines in 5 C.F.R. § 1320.5.

8. If applicable, provide a copy and identify the 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 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 has made no decision to 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.

There is no assurance of confidentiality provided to the respondents.

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

There are no questions of a sensitive nature.

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

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

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

- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

The miners' representative files the information with both MSHA and the affected mine operator. Once the information has been

filed, a representative retains his/her status until the designation is terminated. The reporting burden is, therefore, limited to the annual turnover or replacement of designated miners' representative. The burden is the same for each miners' representative regardless of the size of the mine or the number of miners represented. MSHA estimates that it will take each representative an average of 45 minutes (.75 hours) to prepare and mail the required notification to both the MSHA District Office and the mine operator. Salaries used for this section are taken from the **U.S. Mineral Mine Salaries, Wages, & Benefits - 2000 Survey Results**. MSHA estimates that it will take each representative about one hour to prepare and mail the required notification to both the MSHA District Office and the mine operator.

Coal Mine Safety and Health personnel estimate that two percent of the total active coal mines have persons who are seeking to obtain or change miners' representative designations with MSHA annually. MSHA records that there were 2,375 active coal mines in Fiscal Year (FY) 2000.

2,375 mines x 0.02 (2%) changes per year = 48 annual changes
24 annual changes x .75 hour/change = 18 hours
18 hours x \$27.56/hour (average salary
of a miners' representative) = \$ 496

MSHA records indicate that there were 13,074 active metal and nonmetal mines in Fiscal Year 2000 and that approximately 10 notifications were received in each district, for a total of 60 changes.

60 annual changes x .75 hour per change = 45 hours
45 hours x \$20.02/hour (average salary
of a miners' representative) = \$901

TOTAL BURDEN HOURS: 63 burden hours
TOTAL BURDEN COSTS: \$ 1,397

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- 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

- 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.

Almost all of the notices of miners' representatives are in the form of written correspondence and/or form letters. Virtually all of the correspondences are hand delivered to MSHA district and field offices or presented to MSHA inspectors while on the mine site. MSHA believes that this cost is minimal and has not assigned a cost to this burden. As a consequence, no equipment is necessary and no equipment costs are incurred in complying with this standard. MSHA also believes that the cost to the mine operator for posting a copy of the notice of miners' representative is minimal and has not assigned a cost to this burden.

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.

The cost to the Federal Government is estimated to be negligible, in that the District Manager maintains only a current register of representatives of miners and notifies the mine operator if a representative of miners designation has been terminated.

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

The decrease of 112 in burden hours (from 175 to 63) is due to a decrease in the number of responses (from 350 to 108), less frequent changes in miners' representation at metal and non-metal mining operations and a significantly reduced estimate of the time required to prepare the hand written information provided to MSHA.

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 is not seeking approval to either display or not display the expiration date for OMB approval of this information collection.

B. Collection of Information Employment Statistical Methods

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the Form OMB 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:

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.

This collection of information does not employ statistical

methods.

2. Describe the procedures for the collection of information including:
 - Statistical methodology for stratification and sample selection,
 - Estimation procedure,
 - Degree of accuracy needed for the purpose described in the justification,
 - Unusual problems requiring specialized sampling procedures, and
 - Any use of periodic (less frequently than annual) data collection cycles to reduce burden.
3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.
4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.
5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

