

SUPPORTING STATEMENT

30 CFR § 77.1101 - Escape and Evacuation Plans (Pertains to surface coal mines and surface work areas of underground coal mines.)**A. Justification**

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

Section 101 of the Federal Mine Safety and Health Act of 1977 (Mine Act), provides that the Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of Title 5, United States Code, develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of life and prevention of injuries in coal or other mines.

Title 30, C.F.R. § 77.1101(a) requires operators of surface coal mines and surface work areas of underground coal mines to establish and keep current a specific escape and evacuation plan to be followed in the event of a fire.

Section 77.1101(b) requires that all employees be instructed in current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire. The training and record keeping requirements associated with this standard are addressed under OMB No. 1219-0070 (Certificate of Training).

Section 77.1101(c) requires that escape and evacuation plans include the designation and proper maintenance of adequate means for exiting areas where persons are required to work or travel including buildings, equipment, and areas where persons normally congregate during the work shift.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collections, indicate the actual use the agency has made of the information received from the current collection.

The escape and evacuation plan is used to instruct employees in the proper methods of exiting structures in the event of a fire. MSHA inspection personnel use the plan to determine compliance with the standard requiring a means of escape and evacuation be established and the requirement that employees be instructed in the procedures to follow should a fire occur.

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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 Escape and Evacuation plans using computer generated CAD drawings and retain the records in 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 purpose(s) described in Item 2 above.

No similar or duplicate information exists. Escape and evacuation plans are developed for individual mines and are unique to the mine. Where equipment manufacturers' recommendations, engineering construction drawings, architectural design drawings (which reflect building code requirements such as sprinkler systems, exit signs, fire alarms, firehose stations, restricted occupancy, etc.) or other similar information exists, such information may become an essential part of the required plan.

5. If the collection of information impacts small businesses or other small entities, describe the 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 because accidents, injuries and illnesses can occur at any mine regardless of size. Congress intended that the law be enforced at all mining operations regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Act. S. Rep. 181, 95th Cong., 1st Sess. 28 (1977). However, Congress did recognize that small operations may face problems in complying with some of the provisions of the Mine Act. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses in obtaining any information under the Act. Accordingly, MSHA takes this into consideration when developing regulatory requirements; and when appropriate and consistent with ensuring the health and safety of this nation's miners, different requirements for small and large mines exist. To provide distinct information collection and recordkeeping requirements for small mines in the regulation at hand, however, would not

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promote the Act's objectives. This information collection does not have a significant economic impact on other small entities.

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

Reducing the frequency of or eliminating preparation of the mandatory escape and evacuation plan, prior to commencing operations, or to remove the requirement to maintain the plan current with mine conditions, would eliminate an essential training tool and would expose miners to unnecessary confusion and risk of injury or death should a fire occur in or at their work location. An escape and evacuation plan need be developed only once for a specific surface coal mine or surface work area of an underground coal mine. Therefore, a plan once developed need only be revised if new equipment, additional buildings or other significant changes occur. Changes in mine ownership do not result in a need for developing new surface escape and evacuation plans except where the new owner makes changes to the mine's surface facilities or mining equipment.

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.**

While there is no specific regulatory requirement that escape and evacuation plans be kept for more than three years, 30 CFR 77.1101 requires coal mine operators to establish and keep current such plan and to instruct all employees on the current escape and evacuation plans, fire alarm signals, and applicable procedures to be followed in case of fire. This collection of information is otherwise consistent with the guidelines in 5 CFR. 1320.5, and does not contain any requirements for respondents to report more than quarterly.

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 the 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 a 60-day pre-clearance Federal Register notice soliciting public comments regarding the extension of this information collection.

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 payments or gifts to the respondents.

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

This Information Collection Request does not cover any records requiring confidentiality.

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

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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.

Salaries used for this response were taken from the U.S. Coal Mine Salaries, Wages, & Benefits - 2001 Survey Results.

In FY 2001, there were approximately 1,514 surface coal mines and surface facilities affected by this standard. MSHA estimates that there were approximately 168 new surface coal mines and surface coal facilities opened during FY 2001. MSHA also estimates that approximately 1% of existing surface coal mines and surface coal facilities (15) will need to submit revised plans during the next three years.

MSHA estimates that it will take a coal mine supervisor earning \$54.92 per hour approximately 4 hours to prepare a new escape and evacuation plan, and approximately 2 hours to revise an existing plan.

Hour Burden

168 new plans x 4 hours per plan	=	672 hours
15 revised plans x 2 hours per plan	=	<u>30 hours</u>

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 Total Hour Burden = 702 hours

Hour Burden Cost

702 hours x \$54.92 per hour = \$38,554

MSHA estimates that it will take a clerical person earning \$19.58 per hour approximately 1 hour to type and file a new escape and evacuation plan, and approximately one-half hour (0.5 hour) to type and file a revised plan.

Hour Burden

168 new plans x 1 hour per plan = 168 hours
 15 revised plans x 0.5 hour per plan = 8 hours
 Total Hour Burden = 176 hours

Hour Burden Cost

176 hours x \$19.58 per hour = \$ 3,446

Total Hour Burden = 878 hours
Total Hour Burden Cost = \$42,000

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 generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- ! If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- ! Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

MSHA does not anticipate that mine operators will incur any costs other than those described in Item 12.

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.

Because the review of escape and evacuation plans is just one aspect of the inspections required under Section 103(a) of the Mine Act, MSHA believes that this burden is minimal and has assigned no federal cost burden for this specific information collection.

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 124 Respondents (59 to 183). This increase is due to the number of mines submitting Escape and Evacuation Plans.

Responses: There has been an increase of 124 Responses (59 - 183). This increase is due to the number of mines submitting Escape and Evacuation Plans.

Hours: There has been an increase of 615 burden hours (263 to 878). Time has remained constant from the last submission to this submission; therefore, the increase is due to the increase in the number of responses.

Cost: There has been no change in the cost (\$0)

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions. MSHA has no plans to publish the information obtained through 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.

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There are no forms associated with this collection.

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

There are no certification exceptions identified with this information collection.