

## SUPPORTING STATEMENT

30 C.F.R. § 75.1714-3 (e), Record of Results of Examinations of Self-Rescuers (pertains to 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.

Title 30, C.F.R. §75.1714-3(b), (c), (d), and (e) require that self-rescuers be examined regularly at intervals not to exceed 90 days by a qualified person who certifies by date and signature that the tests were conducted. A record must be made when a self-rescue device is removed from service and when corrective action is taken as a result of the examination. The records are used as an enforcement tool to insure that the devices have been examined and are maintained in operable and usable condition. Certifications and records shall be kept at the mine and made available on request to an authorized representative of the Secretary.

Because of the rugged underground mining environment to which self-rescuers are subjected, the potential for these devices being rendered inoperative is high. In the event of a mine fire, mine explosion, or mine inundation, the use of self-rescuers can be the difference between life and death. Self-rescuers are as essential to miners as life preservers are to sailors. Therefore, it is essential that these devices be examined regularly and that they are maintained in usable and operative condition. The minimum certification and record keeping requirement is necessary in order to maintain credibility in the program and provide reasonable assurance that mine operators conduct the required 90-day examination of the self-rescue devices.

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 are used by MSHA inspectors to determine compliance with the standard and evaluate any trends that may be an indication of a durability or design problem. Company personnel use the information to determine that all self-rescuers have been examined in the required time frame and to document the corrective action that was taken to remove defective devices from service.

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.

June 30, 2004

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 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 purposes described in Item 2 above.**

There is no similar or duplicate information that could be used. Records are the results of examinations conducted by the mine operator.

**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 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.

**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 self-rescue devices are subjected to harsh treatment that could result in damage to the device that may cause the device to malfunction. The 90-day examinations are required to be conducted in accordance with the manufacturer's specifications in order to provide reasonable assurance that the device will continue to function as designed. These are life saving devices that are relied upon in an emergency. The minimum certification and recordkeeping requirements add credibility to the self-rescuer program, assure that appropriate action is taken to remove defective devices from service, and decrease the likelihood that a miner may be required to use a device that may not provide adequate protection, thus endangering the life of the 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 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 requirement for the mine operator to report this information to the Agency, underground coal mine operators are required to have certified proof of examinations in place during the time their mines are actively operating and inspected. MSHA inspection personnel review this information, at the mine site, as a part of their routine inspection activities. This information collection is consistent with the guidelines in 5 C.F.R. §1320.5, and does not contain any requirement for the respondent to report more than quarterly.

**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.

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 has decided not to 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.**

Records are maintained by the mine operator. In addition, there is nothing in the record that would be considered as confidential information.

**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. Except for damaged devices, the record is simply a  
**June 30, 2004**

certification by the mine operator that the required 90-day examination was made and the date of the examination.

**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.**

Based on FY 2003 figures, there are approximately 773 underground coal mines of which 547 mines reported 35,139 employees and coal production. MSHA conducts an annual survey of self-contained self-rescue usage and reports 35,873 self-rescue devices were in use at the end of the fiscal year. Each of these devices is required to be examined every 90-days, which amounts to four times annually. It is estimated that it takes on the average of 30 minutes per respondent to certify the examination was conducted and document the date of the examination.

**Burden hours:**

$$35,873 \text{ rescue devices} \times 4 \text{ responses (143,492 ) annually} \times 0.50 \text{ hours per response} = 71,746 \text{ hours}$$

It is estimated that approximately 100 devices are removed from service annually due to failing the required 90-day examination. Furthermore, it is estimated that it would take approximately 1 minute (0.0167) per device for a respondent to document why a device was taken out of service.

$$100 \text{ self-rescue devices} \times 1 \text{ record/device} \times 1 \text{ minute (.0167 hours)/record} = \underline{\quad 1.7 \text{ hours}} \quad$$

**TOTAL BURDEN HOURS** **71,748 hours**

**Burden cost:**

The inspection of self-rescue devices and the accompanying certifications are usually made by a

**June 30, 2004**

mine supervisor earning approximately \$58.96 per hour (based on salaries reported in the U.S. Coal Mine Salaries, Wages, & Benefits - 2002 Survey Results). Accordingly, the burden cost is estimated as follows:

Inspection/certification:

$$71,746 \text{ hours} \times \$58.96 / \text{hour} = \$4,230,144$$

Records of removal from service:

$$1.7 \text{ hours} \times \$58.96 / \text{hour} = \$ \underline{\quad 100}$$

**TOTAL COSTS** **\$4,230,244**

**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.**

The current standard does not specify the length of time that a mine operator is required to retain such certification and record. MSHA is proposing that this information be retained, at the mine site, for a period of at least one year. We do not believe the one year period would result in a significant burden to the mine operators. By retaining the information for at least one year MSHA would be able to determine if the 90-day examination of the device identifies deficiencies that may indicate a particular device is showing signs of premature failure. This information

could then be used by the Agency to support any durability and design changes that may need to be made by the manufacturer to address these concerns. Because the records are kept at the mine site, there are no additional costs to respondents.

**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.**

MSHA inspection personnel examine the records during routine inspections. MSHA estimates that this burden is minimal and has not included a separate cost factor.

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

As a result of a decline in the number of underground mine operators (respondents), a decrease in the total number of Self-Rescue devices in use in the mining industry, and a decrease in employed miners using self-rescue devices, this information collection burden has decreased.

**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 not display the expiration date for OMB approval of this information collection. There are no forms associated with this information collection;

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

## **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.**

June 30, 2004

**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.**

30 CFR 75.1714-3

Self-rescue devices; inspection, testing, maintenance, repair, and recordkeeping.

- (a) Each operator shall provide for proper inspection, testing, maintenance, and repair of self-rescue devices by a person trained to perform such functions.
- (b) After each time a self-rescue device is worn or carried by a person, the device shall be inspected for damage and for the integrity of its seal by a person trained to perform this function. Self-rescue devices with broken seals or which are damaged so that the device will not function properly shall be removed from service.
- (c) All FSRs approved by MSHA and NIOSH under 42 CFR part 84, except devices using vacuum containers as the only method of sealing, shall be tested at intervals not exceeding 90 days by weighing each device on a scale or balance accurate to within +1 gram. A device that weighs more than 10 grams over its original weight shall be removed from service.
- (d) All SCSRs approved by MSHA and NIOSH under 42 CFR part 84 shall be tested in accordance with instructions approved by MSHA and NIOSH. Any device which does not meet the specified test requirements shall be removed from service.
- (e) At the completion of each test required by paragraphs (c) and (d) of this section the person making the tests shall certify by signature and date that the tests were done. This person shall make a record of all corrective action taken. Certifications and records shall be kept at the mine and made available on request to an authorized representative of the Secretary.
- (f) Self-rescue devices removed from service shall be repaired for return to service only by a person trained to perform such work and only in accordance with the manufacturer's instructions.

[43 FR 54246, Nov. 21, 1978, as amended at 47 FR 14706, Apr. 6, 1982; 56 FR 1478, Jan. 14, 1991; 60 FR 30398, June 8, 1995; 60 FR 33719, June 29, 1995]

**Type of Review:** Extension of Currently Approved Collection.

**Agency:** Mine Safety and Health Administration

**Title:** Records of Results of Examinations of Self-Rescuers

**OMB Number:** 1219-0044 Extension

**Affected Public:** Business or other for-profit.

**Frequency:** Quarterly

**Number of Respondents:** 773

**Number of Annual Responses:** 143,492

**Estimated Time Per Response:** 30 minutes

**Total Burden Hours:** 71,748

**Total Annualized Capital/startup Costs:** \$0

**Total Annual (operating/maintaining systems or purchasing services):** \$0

**Description:** Requires underground coal mine operators to keep records of the corrective actions taken as a result of required examinations of self-rescue devices. The information is used to insure that the examinations are conducted and that the devices are in operable and usable condition in case of an emergency.