

SUPPORTING STATEMENT

30 CFR § 40.3, 40.4, and 40.5, Representative of Miners

30 CFR § Part 41.20, Notification of Legal Identity

30 CFR § 56.1000 and 57.1000, Notification of Commencement of Operations and Closing of Mines (pertains to metal and nonmetal 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 103(f) of the Federal Mine Safety and Health Act of 1977, P.L. 91-173 as amended by P.L. 95-164, (Mine Act) establishes miners' rights which may be exercised through a representative. Title 30, Code of Federal Regulations (CFR) 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, CFR § 40.3 requires the following information to be filed with the Mine Safety and Health Administration (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, CFR § 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 CFR § 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.

Section 109(d) of the Mine Act, requires each operator of a coal or other mine to file with the Secretary of Labor (Secretary), the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. Title 30, CFR Part 41 implements this requirement and provides for the mandatory use of Form 2000-7, Legal Identity Report, for notifying the MSHA of the legal identity of the mine operator.

The legal identity for a mine operator is fundamental to enable the Secretary to properly ascertain the identity of persons and entities charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership, and because of the statutory considerations regarding penalty assessments, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Mine Act.

Under Title 30 CFR § 56.1000 and 57.1000, operators of metal and nonmetal mines must notify the Mine Safety and Health Administration (MSHA) when the operation of a mine will commence or when a mine is closed. Openings and closings of mines are dictated by the economic strength of the mined commodity, and by weather conditions prevailing at the mine site during various seasons.

MSHA must be aware of openings and closings so that its resources can be used efficiently in achieving the requirements of the Mine Act, 30 U.S.C. § 801 *et seq.* Section 103(a) of the Mine Act, 30 U.S.C. § 813, requires that each underground mine be inspected in its entirety at least four times a year, and each surface mine at least two times per year. Mines which operate only during warmer weather must be scheduled for inspection during the spring, summer, and autumn seasons. Mines are sometimes located a great distance from MSHA field offices and the notification required by this standard precludes wasted time and trips.

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.

Representative of Miners: 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.

Notification of Legal Identity: MSHA uses the information to properly identify persons charged with violating mandatory safety and health standards and, in the assessment of civil penalties on those violations. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

Notification of Commencement of Operations and Closing of Mines: The MSHA official in charge of the district office which services the mine in question is charged with the responsibility of receiving this information and assuring that appropriate supervisors and inspectors are informed. Inspection plans can then be developed to include coverage of the mines that are currently in operation so statutory inspection requirements can be met.

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.

Representative of Miners: 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.

Notification of Legal Identity: When the mine operator contacts the local MSHA District Office regarding the Legal Identity Report, they are informed that the form is available on the MSHA Home Page, and that they may now submit the information electronically via the Internet by accessing the MSHA Home Page (<http://www.msha.gov>) and selecting "Forms and On-line Filing" then "Form 2000-7).

Notification of Commencement of Operations and Closing of Mines: While no improved information technology has been identified that would reduce the burden, mine operators can submit the information electronically. However, MSHA has found that the majority of the notifications required by this standard are made by telephone. A small percentage of the notifications are made verbally to an inspector and some are received in writing.

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 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.

This information collection does not have a significant economic impact on small businesses or 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.

Representative of Miners: Failure to report this information would be in violation of the requirements spelled out in Section 103(f) of the Mine Act and Part 40 of the Code of Federal Regulations. 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.

Notification of Legal Identity: The information concerning legal identity of the mine operator and any changes that may occur need to be submitted only once.

Notification of Commencement of Operations and Closing of Mines: The mine operator need only notify MSHA once of each mine opening or closing. If the Agency is not notified, as

required, inspection resources would be wasted when inspectors travel great distances only to find that a mine is closed. In addition, miners (at mines that re-open) may not receive the benefit of safety and health inspections because MSHA would not be aware that the mine had re-opened.

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 otherwise 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.

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 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. There is no personal information 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 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.

Representative of Miners: 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 -2002 Survey Results.

Coal Mine Safety and Health personnel estimate that two percent of the total active coal mines will file to change or obtain new miners' representative designations with MSHA annually. Currently, MSHA records show that there are 1,515 active coal mines.

$$\begin{aligned} 1,515 \text{ mines} \times 0.02 \text{ (2\%)} \text{ changes per year} &= 30 \text{ annual changes} \\ 30 \text{ annual changes} \times .75 \text{ hour/change} &= 23 \text{ hours} \end{aligned}$$

$$23 \text{ hours} \times \$28.66 / \text{hour (average salary of a miners' representative)} = \$ 660$$

Currently, MSHA records indicate that there are 12,163 active metal and nonmetal mines and that approximately 10 notifications are received in each district (6 Districts), for a total of 60 changes.

$$60 \text{ annual changes} \times .75 \text{ hour per change} = 45 \text{ hours}$$

$$45 \text{ hours} \times \$20.51 / \text{hour (average salary of a miners' representative)} = \$923$$

Total Burden Hours: 68 burden hours
Total Burden Costs: \$1,583

Notification of Legal Identity: MSHA estimates that each year there is an average of 13,678 existing mines in operation, of which about 800 are new mines. The remaining 12,878 mines are in compliance with the legal identity reporting requirements of 30 CFR Part 41. Of the 12,878 mines, MSHA estimates that 5,500 operators will amend the information in their legal identity reports. MSHA estimates that it would take the mine operator 30 minutes by hard copy and 20 minutes electronically to complete a report for newly opened mines, and 15 minutes (.25 hours) by hard copy and 10 minutes electronically to amend the information in a previously submitted report.

NEW MINES:

$$755 \text{ new reports (hard copy) annually} \times 30 \text{ minutes} = 378 \text{ hours}$$

$$45 \text{ new reports (.06 \% electronically filed) annually} \times 20 \text{ minutes} = 15 \text{ hours}$$

CHANGES:

$$3,900 \text{ reports filed hard copy annually} \times 15 \text{ minutes (.25 hours)} = 975 \text{ hours}$$

$$1,600 \text{ reports (.2782\% electronically filed)} \times 10 \text{ minutes} = \underline{267 \text{ hours.}}$$

Total Burden Hours: 1,635 burden hours

MSHA experience indicates that the MSHA Form 2000-7 is prepared by a secretary who earns \$20.39 per hour (salary averaged based on data from the U.S. Metal and Industrial Mineral Mine Salaries, Wages, & Benefits - 2002 Survey Results and U.S. Coal Mine Salaries, Wages, & Benefits - 2002 Survey Results).

$$\$20.39 \times 1,635 = \$33,338$$

Notification of Commencement of Operations and Closing of Mines: Currently, the number of Metal/Nonmetal mines is 12,163 (11,920 surface and 243 underground). MSHA has found that the majority of the notifications required by this standard are made by telephone. A small percentage of the notifications are made verbally to an inspector, and some are received in writing. MSHA estimates that 1,100 openings and 1,200 closings of metal and nonmetal mines occur annually. Most of these are temporary in nature and reflect the seasonal status of the mines. Approximately 75% of all metal and nonmetal mine openings and closings (1,725) are

made by telephone calls of 3 minutes (0.05 hour) duration. Approximately 10% (230) are made verbally to the MSHA inspector during routine inspections and no burden is calculable. The remaining 15% (345) are made in writing with an estimated 30 minutes (0.5 hour) burden for each. The calculations are as follows using the clerical hourly rate published by the U.S. Metal and Industrial Mineral Salaries, Wages and Benefits - 2002 Survey Results. The clerical hourly wage for Metal/Nonmetal in 2002 is \$19.06.

Burden hours:

1,725 telephone responses x 0.05 hours	=	86 hours
345 written responses x 0.5 hours	=	<u>173 hours</u>
Total hour burden	=	259 hours

Burden hour cost:

259 hours x \$19.06 per hour (approximate cost of clerical staff person)	=	\$4,937
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GRAND TOTAL HOUR BURDEN: 1,962
GRAND TOTAL COST: \$39,858

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.

Representative of Miners: 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.

Notification of Legal Identity: The Notification of Legal Identity report or changes to the report need to be submitted only once by the mine operator. Therefore, start-up cost, operation and maintenance cost, and purchase of services cost, have not been associated specifically for this regulatory requirement. Mailing cost that may be incurred based on annual submission estimates is as follows:

NEW MINES:

755 new reports annually x \$0.37 postal cost = \$ 279

CHANGES:

3,900 reports (filed hard copy) annually x \$0.37 postal cost = \$1443

All new or changes submitted electronically incur zero charges.

Total cost burden = \$1,722

Notification of Commencement of Operations and Closing of Mines: For most mine operators, a long distance call must be made to notify MSHA that the mine has opened or closed. It is estimated that the cost to respondents who telephone the notification to MSHA averages 77 cents (35 cents for the first minute + 42 cents for 2 additional minutes) per telephone response.

1,725 telephone responses x \$0.77 per call = \$1,328

It is estimated that the cost to mine operators who respond in writing is 34 cents (postage) per written response.

345 written responses x \$0.37 per mailing = \$ 128

Total cost burden = \$1,356

GRAND TOTAL: \$3,078

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.

Representative of Miners: 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.

Notification of Legal Identity: MSHA enforcement personnel examine the records during routine inspection. There is no significant cost to the Federal Government.

Notification of Commencement of Operations and Closing of Mines: MSHA receives approximately 350 notifications of new metal and nonmetal mines opening each year. With each notification, an MSHA inspector must complete a mine information form and supplemental information form. MSHA estimates that it takes an inspector approximately 45 minutes (0.75 hours) to complete each form, and it takes a clerical person approximately 15 minutes (0.25 hours) to enter the data into a computer.

350 notifications x 0.75 hours/notification	=	262.5 hours
350 notifications x 0.25 hours/notification	=	<u>87.5 hours</u>
		350 hours

262.5 hours x \$28.93 per hour (average salary of MSHA mine inspector)	=	\$7,595
(MSHA pay based on 2004 pay schedule GS 12/5 grade, without locality pay)		

87.5 hours x \$16.19 per hour (average salary of clerical staff person)	=	<u>\$1,417</u>
		\$9,012

(MSHA pay based on 2004 pay schedule GS 7/5 grade, without locality pay)

MSHA also receives approximately 1,950 notifications of metal and nonmetal mines closing or re-opening. MSHA estimates that it takes an Agency inspector approximately 15 minutes (0.25 hours) to revise the information on the two forms noted above, and it takes a clerical person approximately 5 minutes (0.08 hours) to enter the data into a computer.

1,950 notifications x 0.25 hours/notification	=	487.5 hours
1,950 notifications x 0.08 hours/notification	=	<u>156.0 hours</u>
		644 hours

487.5 hours x \$28.93 per hour	=	\$14,104
156 hours x \$16.19 per hour	=	<u>\$ 2,526</u>
		\$16,630

GRAND TOTAL FEDERAL HOURS:	=	994 hours
GRAND TOTAL FEDERAL COST:	=	\$25,642

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 burden hours is due to a decrease in the number of mine operators currently filing these reports; the use of electronic filing; and, the reduction of revised information that needed to be reported on the form (2000-7).

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 will display the OMB number and expiration date on the MSHA Form 2000-7.

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 request.

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.

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

LEGAL CITATIONS

Representative of Miners:

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

§103 (f) Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any coal or other mine made pursuant to the provisions of subsection (a), for the purpose of aiding such inspection and to participate in pre- or post-inspection conferences held at the mine. Where there is no authorized miner representative, the Secretary or his authorized representative shall consult with a reasonable number of miners concerning matters of health and safety in such mine. Such representative of miners who is also an employee of the operator shall suffer no loss of pay during the period of his participation in the inspection made under this subsection. To the extent that the Secretary or authorized representative of the Secretary determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. However, only one such representative of miners who is an employee of the operator shall be entitled to suffer no loss of pay during the period of such participation under the provisions of this subsection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 40--REPRESENTATIVE OF MINERS--Table of Contents

Sec. 40.3 Filing procedures.

(a) The following information shall be filed by a representative of miners with the appropriate District Manager, with copies to the operators of the affected mines. This information shall be kept current:

(1) The name, address, and telephone number of the representative of miners. If the representative is an organization, the name, address, and telephone number of the organization and the title of the official or position, who is to serve as the representative and his or her telephone number.

(2) The name and address of the operator of the mine where the represented miners work and the name, address, and Mine Safety and Health Administration identification number, if known, of the mine.

(3) A copy of the document evidencing the designation of the representative of miners.

(4) A statement that the person or position named as the representative of miners is the

representative for all purposes of the Act; or if the representative's authority is limited, a statement of the limitation.

(5) The names, addresses, and telephone numbers, of any representative to serve in his absence.

(6) A statement that copies of all information filed pursuant to this section have been delivered to the operator of the affected mine, prior to or concurrently with the filing of this statement.

(7) A statement certifying that all information filed is true and correct followed by the signature of the representative of miners.

(b) The representative of miners shall be responsible for ensuring that the appropriate District Manager and operator have received all of the information required by this part and informing such District Manager and operator of any subsequent changes in the information.

Sec. 40.4 Posting at mine.

A copy of the information provided the operator pursuant to Sec. 40.3 of this part shall be posted upon receipt by the operator on the mine bulletin board and maintained in a current status.

Sec. 40.5 Termination of designation as representative of miners.

(a) A representative of miners who becomes unable to comply with the requirements of this part shall file a statement with the appropriate District Manager terminating his or her designation.

(b) The Mine Safety and Health Administration shall terminate and remove from its files all designations of representatives of miners which have been terminated pursuant to paragraph (a) of this section or which are not in compliance with the requirements of this part. The Mine Safety and Health Administration shall notify the operator of such termination.

Notification of Legal Identity:

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

§109 (d) Each operator of a coal or other mine subject to this Act shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal or other mine subject to this Act shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine, and such official shall receive a copy of any notice, order, citation, or decision issued under this Act affecting such mine. In any case where the mine is subject to the control of any person not directly involved in the daily operations of the coal or other mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal or other mine subject to the control of such person, and such official shall receive a copy of any notice, order, citation, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 41--NOTIFICATION OF LEGAL IDENTITY--Table of Contents

Subpart C--Operator's Report to the Mine Safety and Health Administration

Sec. 41.20 Legal identity report.

Each operator of a coal or other mine shall file notification of legal identity and every change thereof with the appropriate district manager of the Mine Safety and Health Administration by properly completing, mailing, or otherwise delivering form 2000-7 "legal identity report" which shall be provided by the Mine Safety and Health Administration for this purpose. If additional space is required, the operator may use a separate sheet or sheets.

Notification of Commencement of Operations and Closing of Mines:

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

§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.

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 56--SAFETY AND HEALTH STANDARDS--SURFACE METAL AND NONMETAL MINES--Table of Contents

Subpart A--General

Sec. 56.1000 Notification of commencement of operations and closing of mines.

The owner, operator, or person in charge of any metal and nonmetal mine shall notify the nearest Mine Safety and Health Administration and Metal and Nonmetal Mine Safety and Health District Office before starting operations, of the approximate or actual date mine operation will commence. The notification shall include the mine name, location, the company name, mailing address, person in charge, and whether operations will be continuous or intermittent.

When any mine is closed, the person in charge shall notify the nearest subdistrict office as provided above and indicate whether the closure is temporary or permanent.

Sec. 57.1000 Notification of commencement of operations and closing of mines.

The owner, operator, or person in charge of any metal and nonmetal mine shall notify the nearest Mine Safety and Health Administration Metal and Nonmetal Mine Safety and Health District Office before starting operations, of the approximate or actual date mine operation will commence. The notification shall include the mine name, location, the company name, mailing address, person in charge, and whether operations will be continuous or intermittent. When any mine is closed, the person in charge shall notify the nearest subdistrict office as provided above and indicate whether the closure is temporary or permanent.

MSHA FORM 2000-7

<http://www.msha.gov/forms/2000-7.pdf>

Billing Code: 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request

Submitted for Public Comment and Recommendations; Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines

ACTION: Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 (c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before (insert date 60 days after date of publication in the Federal Register).

Addresses: Send comments to, Darrin King, Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2139, Arlington, VA 22209-3939. Commenters are encouraged to send their comments on computer disks, or via Internet E-mail to king.darrin@dol.gov. Mr. King can be reached at (202) 693-9838 (voice), or (202) 693-9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the “Address” section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(f) of the Federal Mine Safety and Health Act of 1977, P.L. 91 173 as amended by P.L. 95 164, (Mine Act) establishes miners’ rights which may be exercised through a representative. Title 30, Code of Federal Regulations (CFR) 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, CFR § 40.3 requires the following information to be filed with the Mine Safety and Health Administration (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, CFR § 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 CFR § 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.

Section 109(d) of the Mine Act, requires each operator of a coal or other mine to file with the Secretary of Labor (Secretary), the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses.

Title 30, CFR Part 41 implements this requirement and provides for the mandatory use of Form 2000-7, Legal Identity Report, for notifying the MSHA of the legal identity of the mine operator.

The legal identity for a mine operator is fundamental to enable the Secretary to properly ascertain the identity of persons and entities charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership, and because of the statutory considerations regarding penalty assessments, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Mine Act.

Under Title 30 CFR §§ 56.1000 and 57.1000, operators of metal and nonmetal mines must notify the Mine Safety and Health Administration (MSHA) when the operation of a mine will commence or when a mine is closed. Openings and closings of mines are dictated by the economic strength of the mined commodity, and by weather conditions prevailing at the mine site during various seasons.

MSHA must be aware of openings and closings so that its resources can be used efficiently in achieving the requirements of the Mine Act, 30 U.S.C. § 801 et seq. Section 103(a)

of the Mine Act, 30 U.S.C. § 813, requires that each underground mine be inspected in its entirety at least four times a year, and each surface mine at least two times per year. Mines which operate only during warmer weather must be scheduled for inspection during the spring, summer, and autumn seasons. Mines are sometimes located a great distance from MSHA field offices and the notification required by this standard precludes wasted time and trips.

II. Desired Focus of Comments

MSHA is particularly interested in comments which:

- ❖ Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- ❖ Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ❖ Enhance the quality, utility, and clarity of the information to be collected; and
- ❖ Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the “Address” section of this notice or viewed on the Internet by accessing the MSHA home page (<http://www.msha.gov>) and then choosing “Statutory and Regulatory Information” and “Federal Register Documents.”

III. Current Actions

Currently, MSHA is soliciting comments concerning the extension of the information collection requirements related to 30 C.F.R. §§ 40.3, 40.4, and 40.5 (Representative of Miners), 30 CFR Part 41.20 (Notification of Legal Identity), and 30 C.F.R. §§ 56.1000 and 57.1000 (Notification of Commencement of Operations and Closing of Mines).

Type of Review: Extension

Agency: Mine Safety and Health Administration

Title: Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines

OMB Number: 1219-0042

Affected Public: Business or other for-profit

Frequency: On Occasion

Number of Respondents: 3,900

Cite / Reference	Annual Responses	Average Responses Time	Annual Burden Hours
30 CFR §§ 40.3, 40.4, and 40.5 (Representative of Miners)	90	0.75	68
30 CFR Part 41.20 (Notification of Legal Identity)			
New mines (paper filings)	755	0.5	378
New mines (electronic filings)	45	0.33	15
Changes (paper filings)	3,900	0.25	975
Changes (electronic filings)	1,600	0.17	267
30 CFR §§ 56.1000 and 57.1000 (Notification of Commencement of Operations and Closing of Mines, pertains to metal and nonmetal mines)			
Telephone responses	1,725	0.05	86
Written responses	345	0.5	173
Total:	8,460	//////////	1,962

Total Burden Cost (capital/startup): \$0

Total Burden Cost (operating/maintaining): \$3,078

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this _____ day
of _____, 2004.

David L. Meyer, Director,
Office of Administration and Management.