



DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0015]

Proposed Extension of Information Collection; Refuse Piles and Impoundment Structures

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), 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 collections of information in accordance with the Paperwork Reduction Act of 1995. 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. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Refuse Piles and Impoundment Structures, Recordkeeping and Reporting Requirements.

DATES: All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2023-0042.
- *Mail/Hand Delivery:* DOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of

Labor's COVID-19 policy. Special health precautions may be required.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) Public Law 95-164 as amended, 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

30 CFR 77, subpart C, sets forth standards for surface installations to prevent accidents and injuries to coal miners. More specifically, this supporting statement will address impoundments (30 CFR 77.216) and refuse piles (30 CFR 77.215). The failure of these structures can have a devastating effect on mine employees, communities, and nearby areas. To avoid or minimize such failures, MSHA has promulgated standards for the design, construction, and maintenance of these structures; for annual certifications; for certification for hazardous refuse piles; for the frequency of inspections; and the methods of abandonment for impoundments and impounding structures.

30 CFR 77.217(c) defines impoundments are structures that can impound water, sediment, or slurry or any combination of materials. 30 CFR 77.217(e) defines refuse piles as deposits of coal mine waste (other than overburden or spoil) that are excavated during mining operations or separated from mined coal and deposited on the surface as waste byproducts. 30

CFR 77.217(a) also defines “abandoned” as work on refuse pile or impounding structure being completed in accordance with a plan for abandonment approved by the District Manager.

30 CFR 77.215-1 through 77.215-4 require refuse piles to be constructed, maintained, identified, reported and certified in accordance with the requirements described in the rule. Actions to be taken in the event of modification or abandonment are likewise described in the rule.

30 CFR 77.216-1 through 77.216-5 require impoundments to be constructed, maintained, identified, reported and certified in accordance with the requirements described in the rule. Actions to be taken in the event of modification or abandonment are likewise described in the rule.

A. Construction Plans and Modified Plans

30 CFR 77.215-2(a) requires the operator to report and acknowledge in writing from the District Manager prior to any work associated with the construction of a proposed refuse pile.

30 CFR 77.215-2(b) requires the operator to submit to the District Manager a report in triplicate with details of the refuse pile within 180 days of acknowledgment. Reports required under 30 CFR 77.215-2(b) contain, among other things, a topographic map showing the present and proposed maximum extent of the refuse pile including an area 500 feet around the perimeter, a statement of whether or not the refuse pile is burning, a description of measures taken to prevent water from being impounded by the refuse pile or contained within, a cross section of the length and width of the refuse pile at intervals to show the approximate original ground surface, and any other information pertaining to the stability of the pile.

30 CFR 77.216(b) requires plans for the design and construction of all new impounding structures to be submitted in triplicate to and be approved by the District Manager prior to the beginning of any work associated with construction of the impounding structure.

30 CFR 77.215-3 requires, within 180 days of written notification by the District Manager of potential hazard, a certification by a registered engineer to be filed indicating

construction or modification of the refuse pile. The yearly report and certification are required until the District Manager notifies the operator that the hazard has been eliminated.

30 CFR 77.216-2 lists the required information for the impoundment plan. 30 CFR 77.216-2(b) requires any changes or modifications to be approved by the District Manager prior to the modification.

B. Fire Extinguishing Plans

30 CFR 77.215(j) requires the mine operators to have a plan approved by the District Manager, with provisions specifying authorized persons, method, and procedure in extinguishing fires in refuse piles.

30 CFR 77.216(e) requires the mine operator to have a plan approved by the District Manager, with provisions specifying authorized persons, method, and procedure in extinguishing fires in impounding structures.

C. Abandonment Plans

30 CFR 77.215-4 requires written notification to the District Manager when a refuse pile is to be abandoned. If the refuse pile presents a hazard, it must be abandoned following a plan approved by the District Manager.

30 CFR 77.216-5 requires approval from the District Manager prior to abandonment of any impoundment based on current, prudent engineering practices. An abandonment plan does not preclude future impoundment of water if it is approved by the District Manager and contains the required certification by a registered professional engineer, a certification by the owner, and a permit.

D. Annual Status Report and Certification

If the District Manager has determined that a refuse pile can present a hazard, 30 CFR 77.215-2(c) requires that the following information is reported every 12 months: topographic map, whether the refuse pile is burning, measures taken to prevent impounded water, the scale of the refuse pile, and stability.

30 CFR 77.216-4 requires that the submission of a report to the District Manager every 12 months, including a certification by a registered professional engineer. Reports required under 30 CFR 77.216-4(a) contain, among other things, changes in the geometry of the impounding structure for the reporting period; data showing the minimum, maximum and present depth of the impoundment; the storage capacity of the impounding structure; and the volume of the impounded water, sediment, or slurry for the reporting period. The report is not required if a registered professional engineer certifies that there have been no changes in the impoundment.

E. Permanent Identification Marker Posting

30 CFR 77.215-1 requires permanent identification markers at least six feet high to be used to show the refuse pile identification information.

30 CFR 77.216-1 requires permanent identification markers at least six feet high to be used to show the impoundment identification information.

F. Weekly Inspections and Instrumentation Monitoring

30 CFR 77.216-3(a) requires all impoundments to be examined for appearances of structural weakness and other hazardous conditions and all instruments be monitored at intervals not exceeding seven days. All inspections must be performed by a qualified person designated by the owner or operator of the impoundment.

30 CFR 77.216-3(b) requires that, in case of a potentially hazardous condition, actions to be taken to eliminate the condition, notify the District Manager, notify and prepare to evacuate all coal miners if necessary, and direct a qualified person to monitor all instruments and examine the structure at least once every eight hours.

30 CFR 77.216-3(c) requires results of examination and instrumentation monitoring to be promptly recorded, available at the mine for inspection by a MSHA inspector. 30 CFR 77.216-3(d) requires the records include a report of the action taken to abate hazardous condition and be promptly signed or countersigned by the mine foreman or other designated person.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Refuse Piles and Impoundment Structures. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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 submission of responses.

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on www.regulations.gov and www.reginfo.gov.

The public may also examine publicly available documents at DOL-MSHA, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

III. Current Actions

This information collection request concerns provisions for Refuse Piles and Impoundment Structures. MSHA has updated the data with respect to the number of

respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection

Agency: Mine Safety and Health Administration

OMB Number: 1219-0015

Affected Public: Business or other for-profit

Number of Annual Respondents: 907

Frequency: On occasion

Number of Annual Responses: 22,533

Annual Burden Hours: 55,933 hours

Annual Respondent or Recordkeeper Cost: \$1,55,051

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Song-ae Aromie Noe,
Certifying Officer,
Mine Safety and Health Administration.

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