

Similarly, in the case of newly covered tribes, State law provisions governing the election of the reimbursement option at the time of establishing liability will apply.

Transition Provision

Q. *Transition Payments.* The transition provisions permits an Indian tribe to escape unpaid FUTA tax liability for services performed for the tribe before the enactment of the amendments to the FUTA if the tribe reimburses the State unemployment fund for UC attributable to this service. Does this mean my State must, for conformity and compliance purposes, permit an Indian Tribe to convert to reimbursement status for the period before the enactment of the amendments if it makes a transition payment?

A. No. The transition provision does not affect conformity and compliance. The reimbursement option of Section 3309(a)(2), FUTA, (as well as the mandatory coverage requirement of Section 3304(a)(6)(A), FUTA) only applies when services excluded from the term "employment" solely by reason of Section 3309(a)(1)(B), FUTA. Services performed for an Indian tribe before the enactment of the amendments on December 21, 2000, are not excluded from the term "employment" solely by reason of Section 3306(c)(7), FUTA. Rather, these services are excluded because the transition provision provides that they "shall not be treated as employment (within the meaning of section 3306 of [FUTA])." As a result, FUTA does not require a state to permit an Indian tribe to elect the reimbursement option with respect to services performed before December 21, 2000, nor does it mandate coverage for these services.

The transition provision does not require the State to convert tribes to reimbursement status in order for the State to accept a tribal transition payment. The State may, in addition to accepting the tribal transition payment, waive outstanding liabilities for contributions for the period to which the transition payment applies.

The terms and conditions under which States accept transition payments and apply waivers will be determined under State law. However, the transition provision clearly contemplates that States will accept transition payments because they are necessary if an Indian tribe chooses unpaid FUTA liability. States therefore should accept any tribe's transition payment.

IRS Bulletin 2001-8 discusses the transition provision as it affects an Indian tribe's liability for unpaid FUTA taxes.

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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 June 1, 2004.

ADDRESSES: Send comments to Darrin A. King, Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2139, Arlington, VA 22209-3939. Commenters are encouraged to send their comments on computer disk, 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 **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(f) of the Federal Mine Safety and Health Act of 1977, Pub. 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 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 **ADDRESSES** 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."

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 CFR 40.3, 40.4, and 40.5 (Representative of Miners), 30 CFR part 41.20 (Notification of Legal Identity), and 30 CFR 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 in Arlington, Virginia, this 23rd day of March, 2004.

David L. Meyer,

Director, Office of Administration and Management.

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MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meetings

Time and Date: 9 a.m. to 12 p.m., Friday April 23, 2004.

Place: The offices of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, 130 South Scott Avenue, Tucson, AZ 85701.

Status: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

Matters to be Considered: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) a report from the Udall Center for Studies in Public Policy; (3) a report on the Native

Nations Institute; (4) program reports; and (5) a report from the Management Committee.

Portions Open to the Public: All sessions with the exception of the session listed below.

Portions Closed to the Public: Executive session.

Contact Person for More Information: Christopher L. Helms, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 670-5529.

Dated: March 26, 2004.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

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