

compliance with the proposed decision and order (PDO).

(h) Methane tests shall be made in accordance with 30 CFR 75.323(a) before taking or energizing the Versaflo TR-800 or the CleanSpace EX in the return air outby the last open crosscut.

(i) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors shall provide visual and audible warnings when methane is detected at or above 1.0 percent.

(j) A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of the Versaflo TR-800 or CleanSpace EX in the return air outby the last open crosscut.

(k) Neither the Versaflo TR-800 nor the CleanSpace EX shall be used in methane concentrations detected at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the Versaflo TR-800 or CleanSpace EX is being used, the equipment shall be de-energized immediately and the equipment withdrawn outby the last open crosscut.

(l) The Versaflo TR-800 PAPRs only use the 3M TR-830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133. The CleanSpace EX PAPRs shall use the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133.

(m) The battery packs must be "changed out" in intake air outby the last open crosscut. Before each shift when the Versaflo TR-800 or CleanSpace EX is to be used, all batteries and power units for the equipment must be charged sufficiently so that they are not expected to be replaced on that shift.

(n) The following maintenance and use conditions shall apply to the equipment Versaflo TR-800 or the CleanSpace EX containing lithium-type batteries:

1. The petitioner shall always correctly use and maintain the lithium-ion battery packs. Neither the 3M TR-830 Battery Pack nor the CleanSpace EX Power Unit may be disassembled or modified by anyone other than permitted by the manufacturer of the equipment.

2. The 3M TR-830 Battery Pack must only be charged in an area free of combustible material, readily monitored and located on the surface of the mine. The 3M TR-830 Battery Pack is to be charged by either:

i. 3M Battery Charger Kit TR-641N, which includes one 3M Charger Cradle TR-640 and one 3M Power Supply TR-941N, or,

ii. 3M 4- Station Battery Charger Kit TR-644N, which includes four 3M Charger Cradles TR-640 and one 3M 4- Station Battery Charger Base/Power Supply TR-944N.

3. The CleanSpace EX Power Unit is to be charged only by the CleanSpace Battery Charger EX, Product Code PAF-0066.

4. The batteries shall be kept dry and shall not be exposed to water. This does not preclude incidental exposure of sealed battery packs.

5. The batteries shall not be used, charged, or stored in locations where the manufacturer's recommended temperature limits are exceeded. The batteries shall not be placed in direct sunlight or used or stored near a source of heat.

6. The battery shall not be used at the end of its life cycle (e.g. when there is a performance decrease of greater than 20 percent in battery operated equipment). The battery must be disposed of properly.

(o) Affected mine employees must be trained in the proper use and maintenance of the Versaflo TR-800 and the CleanSpace EX PAPRs in accordance with established manufacturer guidelines. This training shall alert the affected employees to recognize the hazards and limitations associated with the use of the equipment in areas where methane could be present and that neither the Versaflo TR-800 nor the CleanSpace EX is approved under 30 CFR part 18. The affected mine employees shall also be trained to de-energize the PAPRs when 1.0 or more percent methane is detected. The training shall also include the proper method to de-energize these PAPRs. In addition to manufacturer guidelines, mine employees shall be trained to inspect the units before use to determine if there is any damage to the PAPRs that would negatively impact intrinsic safety as well as all stipulations in the PDO.

(p) Mine employees shall be trained regarding proper procedures for donning Self-Contained Self Rescuers (SCSRs) during a mine emergency while wearing the Versaflo TR-800 or CleanSpace EX. The mine operator shall submit proposed revisions to update the Mine Emergency Evacuation and Firefighting Program of Instruction under 30 CFR 75.1502.

(q) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the MSHA

District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the Versaflo TR-800 or CleanSpace EX.

(r) All personnel who will be involved with or affected by the use of the Versaflo TR-800 or CleanSpace EX shall receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. Such training shall be completed before any Versflo TR-800 or CleanSpace EX can be used in return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(s) The operator shall provide annual retraining to all personnel who will be involved with or affected by the use of the Versaflo TR-800 or CleanSpace EX in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.5 and shall train experienced miners on its requirements of this Order in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

(t) The final PDO shall be posted in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted, for a period of not less than 60 consecutive days.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Director, Office of Standards, Regulations, and Variances.*

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**BILLING CODE 4520-43-P**

## 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 October 16, 2023.

**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](mailto: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](http://www.regulations.gov) and [www.reginfo.gov](http://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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## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

**[[OMB Control No. 1219–0127]]**

#### **Proposed Extension of Information Collection; Certification and Qualification To Examine, Test, Operate Hoists and Perform Other Duties**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**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 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 Certification and Qualification to Examine, Test, Operate Hoists and Perform Other Duties.

**DATES:** All comments must be received on or before October 16, 2023.