

SUPPORTING STATEMENT

Hoist Operators' Physical Fitness 30 CFR Sections 56.19057, and 57.19057

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Title 30 CFR Sections 56.19057 and 57.19057 require the annual examination and certification of hoist operators' fitness by a qualified, licensed physician. The safety of all Metal and Nonmetal miners riding hoist conveyances is largely dependent upon the attentiveness and physical capabilities of the hoist operator. Improper movements, overspeed, and overtravel of a hoisting conveyance can result in serious physical harm or death to all passengers. While small mine operators are likely to have fewer hoists and hoist operators, Congress intended that the Federal Mine Safety and Health Act of 1977 (Mine Act) be enforced at all mining operations within its jurisdiction regardless of size and that information collection and record keeping requirements be consistent with efficient and effective enforcement of the Mine Act. However, Congress did recognize that small operations may face problems in complying with some provisions of the Mine Act. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Mine Act. This information collection does not have a significant impact on a substantial number of small entities.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information is used by mine operators and Mine Safety and Health Administration (MSHA) enforcement personnel to determine that persons operating hoisting equipment, are physically able to safely perform their functions.

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.

No improved information technology has been identified that would reduce the burden. However, in order to comply with the Government Paperwork Elimination Act, mine operators may retain the records in whatever method they choose, including utilizing computer technology.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

No duplication of the information exists. Records are unique to each mine.

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.

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This information does not have a significant impact on small businesses or other small entities. However, MSHA has made available on our web-site various sources of information, such as “Technical Assistance,” “Best Practices,” and an “Accident Prevention” site. To assist with compliance, these sources provide tips and general information on various topics.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Hoist operators provide a critical service to all personnel and equipment going into and out of some surface and underground mines, as well as emergency response on an as-needed basis. Improper hoisting, caused by the inability of a hoist operator to function effectively due to a medical problem, can cause serious injury or death. This action can be triggered by bumps, sharp or unexpected movements, and improper stopping or starting. Further, hoist operators also assist mine rescue personnel in emergency situations underground where miners may be trapped, injured, or in imminent peril. In that regard, it is imperative that nothing interfere with the hoist operator’s ability to perform his function safely and effectively. If MSHA cannot verify that hoist operators are capable of performing their assigned tasks, the individuals themselves, and those requiring hoisting into or out of a mine, may be at risk.

If physicals are done on a less frequent basis, the risk to all personnel will increase accordingly. Most emergency service providers require annual physicals for their personnel.

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 consistent with the guidelines in 5 C.F.R. 1320.5, and does not contain any requirements for respondents to report more than quarterly.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to

OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, 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.

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 does not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to respondents.

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.**

30 CFR 56/57.19057 require that hoist operators be examined annually and certification of fitness be made and kept at each affected mine. Calculations are based on 58 Metal and

Nonmetal mines that, on average, have two hoists operating two work shifts with an operator for each hoist every shift. Also, on average, each mine has one backup hoist operator. Thus, five persons are required to undergo annual physical examinations and certification for the Metal and Nonmetal mines that have hoists.

Mine operators contract out the examinations and certifications to a third party (private physicians). Therefore, examination costs are included in the answer to question 13. It is estimated that it takes a clerical worker two minutes (0.0333 hours) to file each hoist operator's certification for fitness document. Hourly clerical salary of \$19.06 is based on data from the U.S. Metal & Industrial Mineral Mine Salaries, Wages, & Benefits Survey results for 2002.

Recordkeeping:

5 certifications X 58 mines = 290 certifications

290 hoist operator certifications x 0.0333 hours to file = 9.7 hours

Costs:

9.7 hours x \$19.06 to file = \$ 184.88

TOTAL BURDEN HOURS: 9.7
TOTAL BURDEN COSTS: \$ 184.88

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- The cost estimate should be split into two components: (a) a total capital and start—up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start—up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

30 CFR 56/57.19057 require that hoist operators be examined annually by a physician who shall certify that the operator is physically fit to perform his or her duties. The total cost equals \$89,320 (58 mines x 5 persons per mine x \$308 per examination and certification).

TOTAL COSTS FOR EXAMINATIONS:**\$ 89,320**

Costs are based on a standard allowance cost used by MSHA for the physical examinations required to certify hoist operators fit for duty. MSHA estimates that it will take one hour (at a cost of \$308) for a physician to conduct such examination, review the results, then certify a hoist operator fit for duty.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

MSHA enforcement personnel examine the records during routine inspections. The time to examine these records is minimal, taking two minutes per certification at the 58 mines that have hoists.

$$\begin{array}{rcl} .0333 \text{ minutes} \times 290 \text{ certifications} & = & 9.7 \text{ hours} \\ 9.7 \text{ hours} \times \$28.73 \text{ mine inspector wage per hour} & = & \$278.68 \end{array}$$

Inspector wages are based on 2004 federal pay tables for GS 12/5 without locality pay included.

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

The increase of burden hours and costs is due to the increase in mines with hoist (from 47 to 58).

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.

There are no forms associated with this information collection; therefore, MSHA is not seeking approval to not display the expiration date for OMB approval of this information collection.

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

There are no exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYMENT STATISTICAL METHODS

Collection of information does not employ statistical methods.

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

An Act

TITLE I--GENERAL

MANDATORY SAFETY AND HEALTH STANDARDS

SEC 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), 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 or other mines.

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING 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.

(e) Any information obtained by the Secretary or by the Secretary of Health, Education, and Welfare under this Act shall be obtained in such a manner as not to impose an unreasonable burden upon operators, especially those operating small businesses, consistent with the underlying purposes of this Act. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

30 CFR § 56.19057

Hoist operator's physical fitness.

No person shall operate a hoist unless within the preceding 12 months he has had a medical examination by a qualified, licensed physician who shall certify his fitness to perform this duty. Such certification shall be available at the mine.

30 CFR § 57.19057

Hoist operator's physical fitness.

No person shall operate a hoist unless within the preceding 12 months he has had a medical examination by a qualified, licensed physician who shall certify his fitness to perform this duty. Such certification shall be available at the mine.