

## SUPPORTING STATEMENT

30 C.F.R. §§ 62.110, 62.130, 62.170, 62.171, 62.172, 62.173, 62.174, 62.175, 62.180, and 62.190 - Noise exposure assessment; audiometric testing, evaluation, and records and training in all 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.**

Noise is one of the most pervasive health hazards in mining. Exposure to hazardous sound levels results in the development of occupational noise-induced hearing loss (NIHL), a serious physical, psychological, and social problem. NIHL can be distinguished from aging and medical factors, diagnosed, and prevented. According to the National Institute for Occupational Safety and Health (NIOSH), NIHL is among the "top ten" leading occupational illnesses and injuries.

For many years, the risk of acquiring NIHL was accepted as an inevitable consequence associated with mining occupations. Miners use mechanized equipment and work under conditions that often expose them to hazardous sound levels. But MSHA standards, OSHA standards, military standards, and others around the world have been established in recognition of the controllability of this risk. Quieter equipment, isolation of workers from noise sources, and limiting worker exposure times are among the many well accepted methods now used to reduce the costly incidence of NIHL.

Records of miner exposures to noise are necessary so that mine operators and MSHA can evaluate the need for and effectiveness of engineering controls, administrative controls, and personal protective equipment to protect miners from harmful levels of noise exposure. However, the Agency believes that extensive records for this purpose are not needed. These requirements are a performance-oriented approach to monitoring. Records of miner hearing examinations enable mine operators and MSHA to ensure that the controls are effective in preventing NIHL for individual miners. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts.

Collection of such records is authorized under Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act). 30 C.F.R. §§ 62.110, 62.130, 62.170, 62.171, 62.172, 62.173, 62.174, 62.175, 62.180, and 62.190 - Noise exposure assessment; audiometric testing, evaluation, and records and training in all mines, establishes uniform requirements and recordkeeping for the mining industry.

**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.**

Records of miner exposures are necessary so that mine operators and MSHA can ensure that engineering controls, administrative controls, and personal protective equipment are used to protect miners from harmful levels of exposure. Notification of exposure information to miners assists them in becoming more active participants in hearing conservation efforts.

Hearing tests of miners are offered and if a miner takes the test, mine operators are required to compile and maintain a record of each audiometric test. Detection of a hearing loss can trigger certain protective action. The record will be used by mine operators and MSHA to verify that the testing was done and the required actions implemented.

Mine operators must provide training to certain miners about the hazards of noise exposure, hearing protector selection and use, the hearing test program, and the operator's noise controls. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts. Training records are required under other MSHA regulations and are used for similar purposes.

**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.**

Electronic storage of information and accessing it through computers is a common business practice. Recognizing this trend, the Part 62 rule provided that records are not required to be maintained at the mine site, and therefore can be electronically filed in a central location. The records have to be made available to the authorized representative of the Secretary upon request within a reasonable time, in most cases one day. Although the Part 62 rule did not require backing up the data, some means are necessary to ensure that electronically stored information is not compromised or lost.

**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 duplicative information exists.

**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 does not have a significant 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.**

MSHA believes that the recordkeeping requirements for noise are the minimum necessary to ensure that miners are adequately protected against the harm of excessive noise levels. Reduction in these requirements would result in the development of unhealthy and unsafe conditions in the mine. Section 101(a)(6) of the Mine Act provides that in setting standards to protect workers from the risks of harmful physical agents, the Secretary "shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life."

**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;**

Timely notification to miners is essential to protect them from harmful noise exposures and to provide timely results of audiometric testing. Section 62.110(d) requires the operator to inform a miner in writing of the exposure determination that is equal to or above the action level, exceeds the permissible exposure level, or exceeds the dual hearing protection level and of the corrective action being taken within 15 calendar days of the exposure determination. Section 62.175(a) requires operators to inform the miner in writing of the results of the audiometric test within 10 working days of receiving the results. Timely notification is an important first step in protecting miners from excessive noise exposure and to avoid further hearing loss. These time periods are the maximum allowable to ensure that the miner is informed and that precautions are taken to protect the miner as soon as reasonably practical.

**\* 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.**

Not applicable.

**8. If applicable, provide a copy and identify the date 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.**

MSHA published a 60-day preclearance Federal Register notice on October 10, 2008 (Volume 73, Number 198, Page(s) 60357-60358), soliciting public comments regarding the extension of this information collection. No comments were received.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

MSHA does not 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.**

Operators (respondents) are not assured of confidentiality. However, under 30 C.F.R. § 62.172(a)(3), physicians, audiologists and certain other health professionals are prohibited from sharing with the mine operator certain findings or diagnoses unrelated to a miner's hearing loss without the miner's written consent.

**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.**

NOTE: Burden hour costs were calculated using the following hourly wage:

Coal Supervisor:	\$75.01
M/NM Supervisor:	\$60.34
Coal Secretary:	\$24.50
M/NM Secretary:	\$24.29

2008 # of mines (total Respondents)

Coal Surface	1,377
Coal Underground	576
MNM Surface	12,520
MNM Underground	<u>253</u>
	14,726

Section 62.110(a) requires operators to establish a system of monitoring that evaluates each miner's noise exposure sufficiently to determine if such exposure equals or exceeds the action level, or exceeds the permissible exposure level or dual hearing protection level. To perform the dose determination mine operators will need to purchase or rent noise dosimeters. In addition, mine operators could also use contract services to monitor noise doses.

MSHA estimates that 1,221 small coal mines, 732 large coal mines, 4,495 small M/NM mines, and 796 large M/NM mines will be affected by this provision. It is estimated to take 2 hours to perform dose determination in a small mine and 5 hours in a large mine. The testing is done by a supervisor.

### COAL

#### Annual burden hours to monitor noise exposure

1,221 mines (SM) x 2 hours (supv.)	=	2,442.00 hours
732 mines (LG) x 5 hours (supv.)	=	<u>3,660.00 hours</u>
		<b>6,102.00 hours</b>

#### Annual burden hour costs to monitor noise exposure

6,102 hours x \$75.01 (supv.) wage rate	=	\$ 457,711.02
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### METAL/NONMETAL

#### Annual burden hours to monitor noise exposure

4,495 mines (SM) x 2 hours (supv.)	=	8,990.00 hours
796 mines (LG) x 5 hours (supv.)	=	<u>3,980.00 hours</u>
		<b>12,970.00 hours</b>

#### Annual burden costs to monitor noise exposure

12,970 hours x \$60.34 (supv.) wage rate	=	\$ 782,609.80
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**Costs of dosimeters are shown in Item 13.**

Section 62.110(c) requires mine operators to provide affected miners and their representatives with an opportunity to observe noise exposure monitoring required by this section and to give prior notice of the date and time of intended exposure monitoring to the affected miners and their representatives. Mine operators can choose to give oral notification, distribute a written notice to each miner and their representatives to be monitored, or post a notice.

#### ORAL NOTIFICATION

MSHA estimates that 366 small coal mines, 73 large coal mines, 3,789 small M/NM mines, and 468 large M/NM mines will inform miners and their representatives orally. It is estimated to take 0.033 hours to notify miners orally.

#### COAL

<u>Annual burden hours to notify miners orally</u>	=	<b>14.62 hours</b>
439 mines x 0.033 hrs. (supv.)		

<u>Annual burden costs to notify miners orally</u>	=	<b>\$ 1,096.65</b>
14.62 hours x \$75.01 (supv.) wage rate		

#### METAL/NONMETAL

<u>Annual burden hours to notify miners orally</u>	=	<b>140.48 hours</b>
4,257 mines x 0.033 hrs. (supv.)		

<u>Annual burden costs to notify miners orally</u>	=	<b>\$ 8,476.56</b>
140.48 hours x \$60.34 (supv.) wage rate		

#### POSTING

MSHA estimates that 611 small coal mines, 183 large coal mines, 3,747 small M/NM mines, and 511 large M/NM mines will post a written notice. On the average, 3 notices will be posted per small mine, and 6 notices per large mine. It is estimated to take 0.1 hours for a supervisor to instruct a clerical worker about the posting, and another 0.08 hours for a clerical person to prepare and post the notice.

#### COAL

<u>Annual burden hours to notify miners by posting</u>	=	79.40 hours
794 mines x 0.1 hours (supv.)		
611 mines (SM) x 0.08 hours (clerical) x 3 notices	=	146.64 hours
183 mines (LG) x 0.08 hours (clerical) x 6 notices	=	<u>87.84 hours</u>
		<b>313.88 hours</b>

<u>Annual burden cost to notify miners by posting</u>	=	<b>\$ 5,955.79</b>
79.4 hours x \$75.01 (supv.) wage rate		

234.48 hours x \$24.50 (clerical) wage rate	=	\$ 5,744.76
		<b>\$ 11,700.55</b>

**METAL/NONMETAL**Annual burden hours to notify miners by posting

4,258 mines x 0.1 hours (supv.)	=	425.80 hours
3,747 mines (SM) x 3 notices x 0.08 hours (clerical)	=	899.28 hours
511 mines (LG) x 6 notices x 0.08 hours (clerical)	=	<u>245.28 hours</u>
		<b>1,570.36 hours</b>

Annual burden costs to notify miners by posting

425.8 hours x \$60.34 (supv.) wage rate	=	\$ 25,692.77
1,144.56 hours x \$24.29 (clerical) wage rate	=	\$ <u>27,801.36</u>
		<b>\$ 53,494.13</b>

## WRITTEN NOTIFICATION

In each mine, MSHA estimates that it will take 0.1 hours for a supervisor to give instructions to a clerical worker concerning the written notification. In addition, it will take an additional 0.08 hours for a clerical worker to prepare and distribute a written notice to each miner.

MSHA estimates that 244 small coal mines will distribute 1,464 notices, 476 large coal mines will distribute 14,042 notices, 3,790 small M/NM mines will distribute 28,884 notices, and 468 large M/NM mines will distribute 36,275 notices.

**COAL**Annual burden hours to notify miners in writing

720 mines x 0.1 hours (supv.)	=	72.00 hours
15,506 miners x 0.08 hours (clerical)	=	<u>1,240.48 hours</u>
		1,312.48 hours

Annual burden costs to notify miners in writing

72 hours x \$75.01 (supv.) wage rate	=	\$ 5,400.72
1,240.48 hours x \$24.50 (clerical) wage rate	=	\$ <u>30,391.76</u>
		<b>\$ 35,792.48</b>

**METAL/NONMETAL**Annual burden hours to notify miners in writing

4,258 mines x 0.1 hours (supv.)	=	425.80 hours
65,159 miners x 0.08 hours (clerical)	=	<u>5,212.72 hours</u>
		<b>5,638.52 hours</b>

Annual burden costs to notify miners in writing

425.8 hours x \$60.34 (supv.) wage rate	=	\$ 25,692.77
5,212.72 hours (SM) x \$24.29 (clerical) wage rate	=	\$ <u>126,616.97</u>

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\$ 152,309.74

**Costs for photocopying are shown in Item 13.**

Section 62.110(d) requires that a miner be notified whenever the miner's exposure equals or exceeds the action level, exceeds the permissible exposure level, or exceeds the dual hearing protection level, and the miner has not received notification by the mine operator of exposure at such level within the prior 12 months. The mine operator is required to use an exposure evaluation conducted either by the mine operator or by an authorized representative of the Secretary of Labor as a basis for the notification. The operator must notify the miner in writing within 15 calendar days of (1) the exposure determination; and (2) the corrective action being taken.

In each mine, MSHA estimates that it will take 0.1 hours for a supervisor to give instructions to a clerical worker concerning the notification of the exposure determination and the corrective action being taken. It will take an additional 0.08 hours for a clerical worker to prepare and distribute the notification to each miner. MSHA Coal assumes that during the course of inspections since the introduction of the noise rule that existing miners' exposure levels have been tested and notification given. Therefore, only newly hired miners and miners reassigned to newly created tasks will likely be affected. MSHA estimates that 346 small coal mines will distribute 2,422 notices, 225 large coal mines will distribute 16,200 notices, 5,482 small M/NM mines will distribute 16,446 notices, and 814 large M/NM mines will distribute 26,862 notices.

**COAL**One-time burden hours to notify miners in writing

571 mines x 0.1 hours (supv.)	=	57.10 hours
18,622 miners x 0.08 hours (clerical)	=	<u>1,489.76 hours</u>
		<b>1,546.86 hours</b>

Annualized costs to notify miners in writing

57.10 hours x \$75.01 (supv.) wage rate	=	\$ 4,283.07
1,489.76 hours x \$24.50 (clerical) wage rate	=	\$ <u>36,499.12</u>
		<b>\$ 40,782.19</b>

**METAL/NONMETAL**One-time burden hours to notify miners in writing

6,296 mines x 0.1 hours (supv.)	=	629.6 hours
43,308 miners x 0.08 hours (clerical)	=	<u>3,464.64 hours</u>
		<b>4,094.24 hours</b>

Annualized costs to notify miners in writing

629.6 hours x \$60.34 (supv.) wage rate	=	\$ 37,990.06
3,464.64 hours x \$24.29 (clerical) wage rate	=	\$ <u>84,156.11</u>
		<b>\$ 122,146.17</b>

Costs for photocopying are shown in Item 13.



Section 62.130 states that no miner shall be exposed during any work shift to noise that exceeds a Time-Weighted Average-8hrs (TWA<sub>8</sub>) of 90 dBA permissible exposure level (PEL), or equivalently a dose of 100% of that permitted by the standard, integrating all sound levels from 90 dBA to at least 140 dBA. If during any work shift a miner's noise exposure exceeds the PEL, the mine operator is required to use all feasible engineering and administrative controls to reduce the miner's noise exposure to the PEL, and enroll the miners in a hearing conservation program. When administrative controls are used to reduce a miner's exposure, the mine operator must post the procedures for such controls on the mine bulletin board and provide a copy to the affected miner.

In each mine, MSHA estimates that it will take a mine supervisor .75 hours to write, approve the administrative controls/final procedures in small mines, (including negligible amount of time to instruct the clerical worker) and 1.5 hours for large mines. In addition, it will take 0.75 hours for a clerical worker to type, edit, and post controls concerning the notification of the exposure determination and the corrective action being taken; and it will take an additional 0.08 hours for a clerical worker to prepare and distribute the notification to each miner.

MSHA Coal assumes that during the course of inspections since the introduction of the noise rule that administrative controls have been developed and instituted for existing positions; therefore, only newly created positions and newly created tasks will likely be affected. MSHA estimates that 25 small coal mines will distribute 130 notices, 72 large coal mines will distribute 360 notices, 110 small M/NM mines will distribute 664 notices, and 217 large M/NM mines will distribute 17,882 notices.

### COAL

#### Time to write administrative controls/approve final procedures

25 mines (SM) x 0.75 hours (supv.)	=	18.75 hours
72 mines (LG) x 1.5 hours (supv.)	=	<u>108.00 hours</u>
	=	126.75 hours

#### Time to type, edit, and post controls

97 mines x 0.75 hours (clerical)	=	72.75 hours
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#### Time to distribute copy of controls

490 miners (SM) x 0.08 hours (clerical)	=	39.2 hours
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#### One-time costs to write, post, and distribute administrative controls

126.75 hours x \$75.01 (supv.) wage rate	=	\$ 9,507.52
111.95 hours x \$24.50 (clerical) wage rate	=	\$ <u>2,742.78</u>
		\$ <b>12,250.30</b>

### METAL/NONMETAL

#### Time to write administrative controls & approve final procedures

110 mines (SM) x 0.75 hours (supv.)	=	82.50 hours
217 mines (LG) x 1.5 hours (supv.)	=	<u>325.50 hours</u>
		408.00 hours

<u>Time to type, edit, and post controls</u>		
327 mines x 0.75 hours (clerical)	=	245.25 hours

<u>Time to prepare and distribute copy of controls</u>		
18,546 miners x 0.08 hours (clerical)	=	<u>1,483.68 hours</u>
		<b>2,136.93 hours</b>

<u>One-time burden costs to write, post, and distribute administrative controls</u>		
408 hours x \$60.34 (supv.) wage rate	=	\$ 24,618.72
1,728.93 hours x \$24.29 (clerical) wage rate	=	\$ <u>41,995.71</u>
		<b>\$ 66,614.43</b>

**Costs of engineering controls/photocopying are shown in Item 13.**

Section 62.170(a)(1) states that the audiometric testing which results in a valid baseline audiogram must be offered within 6 months of enrolling a miner in a hearing conservation program. Where mobile test vans are used to meet the audiometric test requirements, the operator must offer and provide audiometric testing within 12 months of enrolling a miner in an HCP.

**Costs for the audiograms are shown in Item 13.**

Section 62.170(b) states that after the baseline audiogram is established, the mine operator must continue to offer subsequent audiometric tests at intervals not exceeding 12 months for as long as the miner remains in the hearing conservation program. The paperwork burden and cost of § 62.170(a) concerning notifying miners of the baseline audiogram are included in this section.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about the audiometric testing notification. In addition, it will take a clerical worker 0.08 hours to prepare and distribute a written notification about the audiometric testing to each miner.

MSHA estimates that 6,865 miners working at 1,001 small coal mines, 47,329 miners working at 651 large coal mines, 40,841 miners working at 8,004 small M/NM mines, and 86,255 miners working at 1,501 large M/NM mines would need to be notified.

**COAL**

1,652 mines x 0.1 hours (supv.)	=	165.2 hours
54,194 miners x 0.08 hours (clerical)	=	<u>4,335.52 hours</u>
		<b>4,500.72 hours</b>

<u>Annual burden costs to write, prepare, and distribute written notification</u>		
165.20 hours x \$75.01 (supv.) wage rate	=	\$ 12,391.65
4,335.52 hours x \$24.50 (clerical) wage rate	=	\$ <u>106,220.24</u>
		<b>\$ 118,611.89</b>

**METAL/NONMETAL**

<u>Annual burden hours to write, prepare, and distribute written notification</u>		
9,505 mines x 0.1 hours (supv.)	=	950.50 hours
127,096 miners x 0.08 hours (clerical)	=	<u>10,167.68 hours</u>
	=	<b>11,118.18 hours</b>

<u>Annual burden costs to write, prepare, and distribute written notification</u>		
950.50 hours x \$60.34 (supv.) wage rate	=	\$ 57,353.17
10,167.68 hours x \$24.29 (clerical) wage rate	=	\$ <u>246,972.95</u>
		<b>\$ 304,326.12</b>

**Costs for photocopying are shown in Item 13.**

Section 62.171 (b) requires operators to compile an audiometric test record including: 1) name and job classification of the miner who has undergone the audiometric test; 2) a copy of all of the miner's audiograms conducted under this part; 3) evidence that the audiograms were conducted in accordance with paragraph (a) of this section; 4) any exposure determination for the miner; and 5) the results of any follow-up examination.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about the audiometric test records. In addition, it will take a clerical worker 0.08 hours to maintain each miner's audiometric test record.

MSHA estimates that 2,814 miners working at 402 small coal mines, 10,320 miners working at 344 large coal mines, 9,802 miners working at 2,412 small M/NM mines, and 14,726 miners working at 380 large M/NM mines will be affected by this provision.

**COAL**

<u>Annual burden hours to give instructions and maintain audiometric test records</u>		
746 mines x 0.1 hours (supv.)	=	74.60 hours
13,134 miners x 0.08 hours (clerical)	=	<u>1,050.72 hours</u>
		<b>1,125.32 hours</b>

<u>Annual burden costs to give instructions and maintain audiometric test records</u>		
74.6 hours x \$75.01 (supv.) wage rate	=	\$ 5,595.75
1,050.72 hours x \$24.50 (clerical) wage rate	=	\$ <u>25,742.64</u>
		<b>\$ 31,338.39</b>

**METAL/NONMETAL**

<u>Annual burden hours to give instructions and maintain audiometric test records</u>		
2,792 mines x 0.1 hours (supv.)	=	279.20 hours
24,528 miners x 0.08 hours (clerical)	=	<u>1,962.24 hours</u>
		<b>2,241.44 hours</b>

Annual burden costs to give instructions and maintain audiometric test records

279.2 hours x \$60.34 (supv.) wage rate	=	\$	16,846.93
1,962.24 hours x \$24.29 (clerical) wage rate	=	\$	<u>47,662.81</u>
		\$	<b>64,509.74</b>

**Costs for photocopying are shown in Item 13.**

Section 62.172(a)(2) states that audiograms must be evaluated by a physician, an audiologist, or a qualified technician who is under the direction or supervision of a physician or audiologist. Section 62.172(a)(1) requires the operator to inform persons evaluating audiograms of the requirements of this part and to provide them with a copy of the miner's audiometric test records.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about the audiometric test records. In addition, it will take a clerical worker 0.08 hours to provide a skilled medical professional with a copy of each miner's audiometric test record.

MSHA estimates that 2,444 miners working at 391 small coal mines, 10,170 miners working at 339 large coal mines, 8,713 miners working in 789 small M/NM mines, and 14,726 miners working in 380 large M/NM mines will be affected by this provision.

**COAL**Annual burden hours to provide audiometric test records to physicians, or audiologists or qualified technicians

730 mines x 0.1 hours (supv.)	=	73.00 hours
12,614 miners x 0.08 hours (clerical)	=	<u>1009.12 hours</u>
		<b>1,082.12 hours</b>

Annual burden costs to provide audiometric test records to physicians, or audiologists, or qualified technicians

73 hours x \$75.01 (supv.) wage rate	=	\$	5,475.73
1009.12 hours x \$24.50 (clerical) wage rate	=	\$	<u>24,723.44</u>
		\$	<b>30,199.17</b>

**METAL/NONMETAL**Annual burden hours to provide audiometric test records to physicians, or audiologists, or qualified technicians

1,169 mines x 0.1 hours (supv.)	=	116.90 hours
23,439 miners x 0.08 hours (clerical)	=	<u>1,875.12 hours</u>
		<b>1,992.02 hours</b>

Annual burden costs to provide audiometric test records to physicians, or audiologists, or qualified technicians

116.90 hours x \$60.34 (supv.) wage rate	=	\$	7,053.75
1,875.12 hours x \$24.29 (clerical) wage rate	=	\$	<u>45,546.66</u>
		\$	<b>52,600.41</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.172(a)(3) requires the mine operator to instruct the physician, audiologist, or a qualified technician not to reveal to the mine operator any specific findings or diagnoses unrelated to the miner's hearing loss due to occupational noise or the wearing of hearing protectors without the written consent of the miner.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about instructing skilled professionals not to reveal to the mine operator any specific findings or diagnoses unrelated to the miner's hearing loss due to occupational noise or the wearing of hearing protectors without the written consent of the miner. In addition, it will take a clerical worker 0.2 hours per mine to instruct the skilled professional and to provide a copy of each miner's audiometric test record.

MSHA estimates that 409 small coal mines, 344 large coal mines, 789 small M/NM mines and 380 large M/NM mines will be affected by this provision.

**COAL**Annual burden hours to instruct physicians, or audiologists, or qualified technicians

753 mines x 0.1 hours (supv.)	=	75.30 hours
753 mines x 0.2 hours (clerical)	=	<u>150.60 hours</u>
		<b>225.90 hours</b>

Annual burden costs to instruct physicians, or audiologists, or qualified technicians

75.30 hours x \$75.01 (supv.) wage rate	=	\$ 5,648.25
150.60 hours x \$24.50 (clerical) wage rate	=	\$ <u>3,689.70</u>
		<b>\$ 9,337.95</b>

**METAL/NONMETAL**Annual burden hours to instruct physicians, or audiologists, or qualified technicians

1,169 mines x 0.1 hours (supv.)	=	116.90 hours
1,169 mines x 0.2 hours (clerical)	=	<u>233.80 hours</u>
		<b>350.70 hours</b>

Annual burden costs to instruct physicians, or audiologists, or qualified technicians

116.90 hours x \$60.34 (supv.) wage rate	=	\$ 7,053.75
233.8 hours x \$24.29 (clerical) wage rate	=	\$ <u>5,679.00</u>
		<b>\$ 12,732.75</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.172(b)(1) requires the mine operator to offer an audiometric re-test within 30 calendar days of receiving a determination that an audiogram is invalid, provided that any medical pathology has improved to the point that a valid audiogram may be obtained.

**Actual costs for audiometric retests are shown in Item 13.**

Section 62.173(a) requires the operator to refer a miner for a clinical-audiological evaluation or an otological examination, at no cost to the miner, if a valid audiogram cannot be obtained due to a suspected medical pathology of the ear which the physician or audiologist believes was caused or aggravated by the miner's occupational exposure to noise or the wearing of hearing protectors.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about preparing notification to inform the miner of the examination. In addition, it will take a clerical worker 0.08 hours to type the notification.

MSHA estimates that 8 miners in 8 small coal mine, 48 miners in 24 large coal mine, 65 miners in 11 small M/NM mines and 137 miners in 2 large M/NM mine will be affected by this provision.

### COAL

#### Annual burden hour to notify miners of testing

32 mine x 0.1 hour (supv.)	=	3.20 hours
56 miners x 0.08 hour (clerical)	=	<u>4.48 hours</u>
		<b>7.68 hours</b>

#### Annual burden costs to notify miners of testing

3.2 hours x \$75.01 (supv.) wage rate	=	\$ 240.03
4.48 hours x \$24.50 (clerical) wage rate	=	\$ <u>109.76</u>
		<b>\$ 349.79</b>

### METAL/NONMETAL

#### Annual burden hours to notify miners of testing

13 mines x 0.1 hour (supv.)	=	1.30 hours
202 miners x 0.08 hours (clerical)	=	<u>16.16 hours</u>
		<b>17.46 hours</b>

#### Annual burden costs to notify miners of testing

1.3 hours x \$60.34 (supv.) wage rate	=	\$ 78.44
16.16 hours x \$24.29 (clerical) wage rate	=	\$ <u>392.53</u>
		<b>\$ 470.97</b>

**Actual costs for photocopying/otological examinations are shown in Item 13.**

Section 62.173(b) requires the operator to instruct the physician, or audiologist to inform the miner of the need for an otological examination if a valid audiogram cannot be obtained due to a medical pathology of the ear which is unrelated to the miner's occupational exposure to noise or the wearing of hearing protectors.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about instructing skilled professionals to inform the miner of the need for an otological examination. In addition, it will take a clerical worker .08 hours per mine to instruct the skilled professional.

MSHA estimates that 12 miners in 12 small coal mines, 35 miners in 35 large coal mines, 76 miners in 12 small M/NM mines and 137 miners in 2 large M/NM mines will be affected by this provision.

### COAL

#### Annual burden hours to instruct physician or audiologist

47 mines x 0.1 hours (supv.)	=	4.70 hours
47 mines x 0.08 hours (clerical)	=	<u>3.76 hours</u>
		<b>8.46 hours</b>

#### Annual burden costs to instruct physician or audiologist

4.7 hours x \$75.01 (supv.) wage rate	=	\$ 352.55
3.76 hours x \$24.50 (clerical) wage rate	=	\$ <u>92.12</u>
		<b>\$ 444.67</b>

### METAL/NONMETAL

#### Annual burden hours to instruct physician or audiologist

14 mines x 0.1 hours (supv.)	=	1.40 hours
14 mines x 0.08 hours (clerical)	=	<u>1.12 hours</u>
		<b>2.52 hours</b>

#### Annual burden costs to instruct physician or audiologist after First Year

1.4 hours x \$60.34 (supv.) wage rate	=	\$ 84.48
1.12 hours x \$24.29 (clerical) wage rate	=	\$ <u>27.20</u>
		<b>\$ 111.68</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.173(c) requires the operator to instruct the physician, audiologist, or qualified technician not to reveal to the operator any specific findings or diagnoses unrelated to the miner's occupational exposure to noise or the wearing of hearing protectors without the written consent of the miner.

In each mine, it will take a supervisor 0.05 hours to give instructions to a clerical worker about instructing skilled professionals to not reveal findings to the mine operator without the written consent of the miner.

In addition, it will take a clerical worker 0.1 hours per mine to instruct the skilled professional.

MSHA estimates that 12 miners in 12 small coal mines, 35 miners in 35 large coal mines, 76 miners in 12 small M/NM mines and 137 miners in 2 large M/NM mine will be affected by this provision.

### COAL

#### Annual burden to instruct physician, audiologist, or qualified technician

47 mines x 0.05 hours (supv.)	=	2.35 hours
47 mines x 0.1 hours (clerical)	=	<u>4.70 hours</u>
		<b>7.05 hours</b>

#### Annual costs to instruct physician, audiologist, or qualified technician

1219-0120

2.35 hours x \$75.01 (supv.) wage rate	=	\$	176.27
4.70 hours x \$24.50 (clerical) wage rate	=	\$	<u>115.15</u>
		\$	<b>291.42</b>

**METAL/NONMETAL**

Annual burden hours to instruct physician, audiologist, or qualified technician

14 mines x 0.05 hours (supv.)	=	0.70 hours
14 mines x 0.1 hours (clerical)	=	<u>1.40 hours</u>
		<b>2.10 hours</b>

Annual burden costs to instruct physician or audiologist

.7 hours x \$60.34 (supv.) wage rate	=	\$	42.24
1.4 hours x \$24.29 (clerical) wage rate	=	\$	<u>34.00</u>
		\$	<b>76.24</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.174(a) requires that the operator retrain a miner within 30 calendar days of receiving evidence of a Standard Threshold Shift (STS) or receiving the results of a retest confirming an STS, unless a physician or audiologist determines that an STS is neither work-related nor aggravated by occupational noise exposure.

In each mine it will take a supervisor 0.35 hours to retrain miners. MSHA estimates that a supervisor can train all the miners in a small mine in one session, and all the miners in a large mine in three sessions.

MSHA estimates that 35 small coal mines, 44 large coal mines, 230 small M/NM mines, and 34 large M/NM mines will be affected by this provision.

**COAL**

Annual burden hours to retrain miners

35 mines x 0.35 hours (supv.) x 1 session	=	12.25 hours
44 mines x 0.35 hours (supv.) x 3 sessions	=	<u>46.20 hours</u>
		<b>58.45 hours</b>

Annual burden costs to retrain miners

58.45 hours x \$75.01 (supv.) wage rate	=	\$	<b>4,384.33</b>
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**METAL/NONMETAL**

Annual burden hours to retrain miners

230 mines x 0.35 hours (supv.) x 1 session	=	80.50 hours
34 mines x 0.35 hours (supv.) x 3 sessions	=	<u>35.70 hours</u>
		<b>116.20 hours</b>

Annual burden costs to retrain miners

116.20 hours x \$60.34 (supv.) wage rate	=	\$	<b>7,011.51</b>
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Section 62.174(a) requires that retraining be provided in accordance with 62.180. Section 62.180(b) requires the operator to certify the date and type of training given each miner and to retain the most recent certification for as long as the miner is enrolled in the hearing conservation program, and for at least six months thereafter.

In each mine it will take a clerical worker 0.05 hours, per miner, to certify the date and type of training and to maintain the certification.

MSHA estimates that 265 miners in small coal mines, 986 miners in large coal mines, 1,029 miners in small M/NM mines, and 2,079 miners in large M/NM mines are affected by this provision.

### COAL

<u>Annual burden hours to certify date and type of training</u>		
1251 miners x 0.05 hours (clerical)	=	<b>62.55 hours</b>

<u>Annual burden costs to certify date and type of training</u>		
62.55 hours x \$24.50 (clerical) wage rate	=	<b>\$ 1,532.48</b>

### METAL/NONMETAL

<u>Annual burden hours to certify date and type of training</u>		
3,108 miners x 0.05 hours (clerical)	=	<b>155.40 hours</b>

<u>Annual burden costs to certify date and type of training</u>		
155.40 hours x \$24.29 (clerical) wage rate	=	<b>\$ 3,774.67</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.175(a)(1) requires the mine operator, within 10 working days of receiving the results of an audiogram or follow-up evaluation, to notify the miner of the results in writing.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about audiometric testing notification. In addition it will take a clerical worker 0.08 hours to prepare and distribute a written notification about the testing to each miner.

MSHA estimates 2,730 miners working at 427 small coal mines, 8,545 miners working at 263 large coal mines, 14,578 miners working at 3,618 small M/NM mines, and 16,830 miners working at 619 large M/NM mines will be affected by this provision.

### COAL

<u>Annual burden hours to notify miners of audiometric test results</u>		
690 mines x 0.1 hours (supv.)	=	69.00 hours
11,275 miners x 0.08 hours (clerical)	=	902.00 hours
		<b>971.00 hours</b>

<u>Annual burden hour costs to notify miners of audiometric test results</u>		
69 hours x \$75.01 (supv.) wage rate	=	\$ 5,175.69
902 hours x \$24.50 (clerical) wage rate	=	\$ <u>22,099.00</u>
		\$ <b>27,274.69</b>

**METAL/NONMETAL**

<u>Annual burden hours to notify miners of audiometric test results</u>		
4,237 mines x 0.1 hours (supv.)	=	423.70 hours
31,408 miners x 0.08 hours (clerical)	=	<u>2,512.64 hours</u>
		<b>2,936.34 hours</b>

<u>Annual burden costs to notify miners of audiometric test results</u>		
423.7 hours x \$60.34 (supv.) wage rate	=	\$ 25,566.06
2,512.64 hours x \$24.29 (clerical) wage rate	=	\$ <u>61,032.03</u>
		\$ <b>86,598.09</b>

Section 62.175(a)(1) requires the operator to notify the miner within 10 working days of the results and interpretation of an audiometric test or follow-up evaluation (otological examination), including any finding of a standard threshold shift or reportable hearing loss.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about the results of the follow-up evaluation. In addition it will take a clerical worker 0.08 hours to prepare and distribute a written notification about the results to each miner.

MSHA estimates 12 miners working at 12 small coal mines, 35 miners working at 35 large coal mines, 65 miners working at 11 small M/NM mines, and 137 miners working at 2 large M/NM mine will be affected by this provision.

**COAL**

<u>Annual burden hours to notify miners of testing</u>		
47 mines x 0.1 hour (supv.)	=	4.70 hours
47 miners x 0.08 hour (clerical)	=	<u>3.76 hours</u>
		<b>8.46 hours</b>

<u>Annual burden costs to notify miners of testing</u>		
4.7 hours x \$75.01 (supv.) wage rate	=	\$ 352.55
3.76 hours x \$24.50 (clerical) wage rate	=	\$ <u>92.12</u>
		\$ <b>444.67</b>

**METAL/NONMETAL**

<u>Annual burden hours to notify miners of testing</u>		
13 mines x 0.1 hour (supv.)	=	1.30 hours
202 miners x 0.08 hours (clerical)	=	<u>16.16 hours</u>
		<b>17.46 hours</b>

Annual burden costs to notify miners of testing

1.30 hours x \$60.34 (supv.) wage rate	=	\$	78.44
16.16 hours x \$24.29 (clerical) wage rate	=	\$	<u>392.53</u>
		\$	<b>470.97</b>

Section 62.175(a)(2) requires operators to notify miners of the need and reasons for any further testing or evaluation, if applicable.

In each mine it will take a supervisor 0.1 hours to give instructions to a clerical worker about the need and reasons for any further testing. In addition, it will take a clerical worker 0.08 hours to prepare and distribute a written notification to each miner.

MSHA estimates that 234 miners working at 219 small coal mines, 1,446 miners working at 468 large coal mines, 1,301 miners working at 230 small M/NM mines, and 2,472 miners working at 31 large M/NM mines will be affected by this provision.

COALAnnual burden hours to notify miners of need for further testing

687 mines x 0.1 hours (supv.)	=	68.70 hours
1,680 miners x 0.08 hours (clerical)	=	<u>134.40 hours</u>
		<b>203.10 hours</b>

Annual burden costs to notify miners of need for further testing

68.70 hours x \$75.01 (supv.) wage rate	=	\$	5,153.19
134.40 hours x \$24.50 (clerical) wage rate	=	\$	<u>3,292.80</u>
		\$	<b>8,445.99</b>

METAL/NONMETALAnnual burden hours to notify miners of need for further testing

261 mines x 0.1 hours (supv.)	=	26.10 hours
3,773 miners x 0.08 hours (clerical)	=	<u>301.84 hours</u>
		<b>327.94 hours</b>

Annual burden costs to notify miners of need for further testing

26.1 hours x \$60.34 (supv.) wage rate	=	\$	1,574.87
301.84 hours x \$24.29 (clerical) wage rate	=	\$	<u>7,331.69</u>
		\$	<b>8,906.56</b>

Section 62.175(b) requires the operator to report to MSHA, in accordance with Part 50, a work related/or aggravated hearing loss by occupational noise exposure of 25 dB or greater. The burden for reporting a hearing loss of 25 dB or greater would be included in the Part 50 paperwork burden hour estimates approved under OMB control number 1219-0007. The Agency does not expect a significant increase in the existing burden hours.

Section 62.180(a) requires that within 30 days of a miner's enrollment into a hearing conservation program, the mine operator must provide the miner with training. The training must include: the effects of noise on hearing; the purpose and value of wearing hearing protectors; the advantages and disadvantages of the hearing protectors offered; the care, fitting, and use of the hearing protector worn by the miner and the various types of hearing protectors offered by the operator; the mine operator's and miner's respective tasks in maintaining the noise controls; and the purpose and value of audiometric testing and a summary of the procedures.

In each mine, it will take a supervisor 0.35 hours to train affected miners. Since the introduction of the noise rule, MSHA Coal assumes that during the course of inspections that existing miners have been tested and affected miners enrolled in a Hearing Conservation Program. Therefore, only newly hired miners and miners reassigned to newly created tasks will likely be affected. MSHA estimates that 525 small coal mines, 325 large coal mines, 5,482 small M/NM mines, and 814 large M/NM mines will be affected by this provision. MSHA further estimates that a supervisor can train all the miners in a small mine in one session, and all the miners in a large mine in three sessions.

### COAL

#### Annual burden hours to train miners

525 mines x 0.35 hours (supv.) x 1 session	=	183.75 hours
325 mines x 0.35 hours (supv.) x 3 sessions	=	<u>341.25 hours</u>
		<b>525.00 hours</b>

#### Annual burden hour costs to train miners

525 hours x \$75.01 (supv.) wage rate		<b>\$ 39,380.25</b>
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### METAL/NONMETAL

#### Annual burden hours to train miners

5,482 mines x 0.35 hours (supv.) X 1 session	=	1,918.70 hours
814 mines x 0.35 hours (supv.) x 3 session	=	<u>854.70 hours</u>
		<b>2,773.40 hours</b>

#### Annual burden hour costs to train miners

2,773.4 hours x \$60.34 (supv.) wage rate	=	<b>\$ 167,346.96</b>
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Section 62.180(b) requires mine operators to certify the date and type of training given each miner, and to maintain the miner's most recent certification for as long as the miner is enrolled in the HCP, and for at least 6 months thereafter. The type of training may be initial noise training, annual retraining, or special retraining required for a miner as a result of an STS.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about preparing and filing a training certificate and .08 hours to certify the date and type of training. It will take a clerical worker 0.05 hours, per miner, to file the training certificate.

MSHA estimates that 6,398 miners working at 1,005 small coal mines, 59,162 miners working at 651 large coal mines, 40,645 miners working at 8,069 small M/NM mines, and 86,150 miners working at 1,495 large M/NM mines will be affected by this provision.

### COAL

#### Annual burden hours to prepare and file certificate

1,656 mines x 0.18 hours (supv.)	=	298.08 hours
65,560 miners x 0.05 hours (clerical)	=	<u>3,278.00 hours</u>
		<b>3,576.08 hours</b>

#### Annual burden costs to prepare and file certificate

298.08 hours x \$75.01 (supv.) wage rate	=	\$ 22,358.98
3,278.00 x \$24.50 (clerical) wage rate	=	\$ <u>80,311.00</u>
		<b>\$ 102,669.98</b>

### METAL/NONMETAL

#### Annual burden hours to prepare and file certificate

9,564 mines x 0.18 hours (supv.)	=	1,721.52 hours
126,795 miners x 0.05 hours (clerical)	=	<u>6,339.75 hours</u>
		<b>8,061.27 hours</b>

#### Annual burden costs to prepare and file certificate

1,721.52 hours x \$60.34 (supv.) wage rate	=	\$ 103,876.52
6,339.75 hours x \$24.29 (clerical) wage rate	=	\$ <u>153,992.53</u>
		<b>\$ 257,869.05</b>

**Actual costs for photocopying are shown in number 13.**

Section 62.190 Records. Operators are required to provide access to all records required under this part to the authorized representatives of the Secretaries of Labor and Health and Human Services. Upon written request, the mine operator must provide, within 15 calendar days, access to records to miners and the miner's designee, and training certifications and notices of exposure determinations to miners and their authorized representatives. The mine operator must also provide, to any former miner, records which indicate his or her own exposure.

Section 62.190(b) requires the operator to provide the first copy of a record to a person who has access, at no cost to that person, and additional copies requested by that person at reasonable cost.

In each mine, it will take a supervisor 0.1 hours to instruct a clerical worker about locating and photocopying miners' records. In addition it will take a clerical worker 0.15 hours to locate and photocopy each miner's records.

MSHA estimates that 390 miners working at 141 small coal mines, 3,944 miners working at 413 large coal mines, 11,131 miners working at 1,973 small M/NM mines, and 14,957 miners working at 194 large M/NM mines will be affected by this provision.

**COAL**Annual burden hours to provide copy of files

554 mines x 0.1 hours (supv.)	=	55.40 hours
4,334 miners x 0.15 hours (clerical)	=	<u>650.10 hours</u>
		<b>705.50 hours</b>

Annual burden costs to provide copy of files

55.40 hours x \$75.01 (supv.) wage rate	=	\$ 4,155.55
650.10 hours x \$24.50 (clerical) wage rate	=	\$ <u>15,927.45</u>
		<b>\$ 20,083.00</b>

**METAL/NONMETAL**Annual burden hours to provide copy of files

2,167 mines x 0.1 hours (supv.)	=	216.70 hours
26,088 miners x 0.15 hours (clerical)	=	<u>3913.20 hours</u>
		<b>4,129.90 hours</b>

Annual burden costs to provide copy of files

216.7 hours x \$60.34 (supv.) wage rate	=	\$ 13,075.68
3,913.2 hours x \$24.29 (clerical) wage rate	=	\$ <u>95,051.63</u>
		<b>\$ 108,127.31</b>

**Actual costs for photocopying are shown in Item 13.**

Section 62.190(c) Transfer of records requires the mine operator to transfer all records required to be maintained by this part to a successor operator whenever an operator ceases to do business.

In each mine, it will take a supervisor 0.1 hours to give instructions to a clerical worker about transferring records. In addition, a clerical worker will take 0.5 hours to compile the records at a small mine, and 1.0 hour to compile records at a large mine. MSHA estimates that 183 small coal mines, 62 large coal mines, 921 small M/NM mines, and 27 large M/NM mines will close annually.

**COAL**Annual burden hours to transfer records

245 mines (SM) x 0.1 hours (supv.)	=	24.50 hours
183 mines (SM) x 0.5 hours (clerical)	=	91.50 hours
62 mines (LG) x 1.0 hour (clerical)	=	<u>62.00 hours</u>
		<b>178.00 hours</b>

Annual burden costs to transfer records

24.5 hours x \$75.01 (supv.) wage rate	=	\$ 1,837.75
153.50 hours x \$24.50 (clerical) wage rate	=	\$ <u>3,760.75</u>
		<b>\$ 5,598.50</b>

**METAL/NONMETAL**

Annual burden hours to transfer records

948 mines x 0.1 hours (supv.)	=	94.80 hours
921 mines (SM) x 0.5 hours (clerical)	=	460.50 hours
27 mines (LG) x 1.0 hours (clerical)	=	<u>27.00 hours</u>
		<b>582.30 hours</b>

Annual burden costs to transfer records

94.8 hours x \$60.34 (supv.) wage rate	=	\$ 5,720.23
487.50 hours x \$24.29 (clerical) wage rate	=	\$ <u>11,841.38</u>
		\$ <b>17,561.61</b>

<b>TOTAL BURDEN HOURS (ROUNDED)</b>	=	<b>84,146</b>
<b>TOTAL BURDEN COST (ROUNDED)</b>	=	<b>\$ 3,237,856</b>

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 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.

Section 62.110(a) requires operators to establish a system of monitoring that evaluates each miner's noise exposure sufficiently to determine if such exposure equals or exceeds the action level, or exceeds the permissible exposure level or dual hearing protection level. To perform the dose determination mine

operators will need to purchase or rent noise dosimeters. In addition, mine operators could also use contract services to monitor noise doses.

MSHA estimates that annual operating and maintenance costs related to the dosimeters will be 10% of equipment cost excluding calibration. The annual cost for calibration of equipment is \$195.00 for small mines and \$390.00 for large mines. Small mines will require one dosimeter and large mines will require two. The cost for a dosimeter is \$1,575. There are 1,221 small coal mines, 732 large coal mines, 6,481 small M/NM mines, and 1,122 large M/NM mines affected by this provision.

Annual Operating and Maintenance Costs for Coal Mines

1,221 mines (SM) X \$1,575 X 10% + (1,221 mine X \$195.00)	=	\$	430,402.50
732 mines (LG) X \$1,575 X 2 X 10% + (732 mines X \$390.00)	=	\$	<u>516,060.00</u>
		\$	<b>946,462.50</b>

Annual Operating and Maintenance Costs for M/NM Mines

6,481 mines (SM) X \$1,575 X 10% + (6,481 mines x \$195.00)	=	\$	2,284,552.50
1,122 mines (LG) X \$1,575 X 2 X 10% + (1,122 mines x \$390.00)	=	\$	<u>791,010.00</u>
		\$	<b>3,075,562.50</b>

**Total Annual Operating and Maintenance Costs** = **\$ 4,022,025.00**

Section 62.110(c) requires mine operators to provide affected miners and their representatives with an opportunity to observe noise exposure monitoring required by this section and to give prior notice of the date and time of intended exposure monitoring to the affected miners and their representatives. Mine operators can choose to give oral notification, distribute a written notice to each miner to be monitored, or post a notice.

Written Notification

It costs \$0.30 per copy to provide 1,464 affected miners in small coal mines, 14,042 affected miners in large coal mines, 28,884 miners in small M/NM mines, and 36,275 miners in large M/NM mines with written notification of when noise monitoring will occur.

Annual Costs for Coal Mines

15,506 miners X \$0.30	=	\$	4,651.80
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Annual Costs for M/NM Mines

65,159 miners X \$0.30	=	\$	<u>19,547.70</u>
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**TOTAL COSTS FOR WRITTEN NOTIFICATION** = **\$ 24,199.50**

Posting Notification

It costs \$0.30 to copy a notice to post. Three copies will have to be posted in a small mine and six copies in a large mine to provide miners with notification of monitoring. There are 611 small coal mines, 183 large coal mines, 3,747 small M/NM mines and 511 large M/NM mines affected by this provision.

Annual Costs for Coal Mines

611 (SM) mines X \$0.30 X 3 copies	=	\$	549.90
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183 (LG) mines X \$0.30 X 6 copies	=	\$	<u>329.40</u>
		\$	<b>879.30</b>

Annual Costs for M/NM Mines

3,747 mines (SM) X \$0.30 X 3 copies	=	\$	3,372.30
511 mines (LG) X \$0.30 X 6 copies	=	\$	<u>919.80</u>
		\$	<b>4,292.10</b>

<b>TOTAL COSTS FOR POSTING NOTIFICATION</b>	=	\$	<b>5,171.40</b>
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Section 62.110(d) requires that whenever a miner's exposure equals or exceeds the action level, exceeds the permissible exposure level, or exceeds the dual hearing protection level, and the miner has not received notification of exposure at such level within the prior 12 months, the operator must notify the miner in writing within 15 calendar days of: (1) the exposure determination; and (2) the corrective action being taken. The mine operator is required to use an exposure evaluation conducted either by the mine operator or by an authorized representative of the Secretary of Labor as a basis for the notification. It is estimated that the cost for photocopying the notification letter is \$0.30. The final rule required mine operators to notify all affected miners, therefore photocopying is needed for each miner. There are 2,422 affected miners in small coal mines, 16,200 affected miners in large coal mines, 50,034 miners in small M/NM mines and 116,402 miners in large M/NM mines affected by this provision.

Annual Costs for Coal Mines

18,622 miners x \$0.30	=	\$	5,586.60
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Annual Costs for M/NM Mines

121,436 miners x \$0.30	=	\$	<u>36,430.80</u>
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<b>TOTAL COSTS FOR NOTIFICATION</b>	=	\$	<b>42,017.40</b>
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Section 62.130 states that no miner shall be exposed during any work shift to noise that exceeds a TWA<sub>s</sub> of 90 dBA permissible exposure level (PEL), or equivalently a dose of 100% of that permitted by the standard, integrating all sound levels from 90 dBA to at least 140 dBA. If during any work shift a miner's noise exposure exceeds the PEL, the mine operator is required to use all feasible engineering and administrative controls to reduce the miner's noise exposure to the PEL, and enroll the miners in a hearing conservation program. When administrative controls are used to reduce a miner's exposure, the mine operator must post the procedures for such controls on the mine bulletin board and provide a copy to the affected miners.

Administrative Controls

The final rule requires mine operators to supply a copy, at \$0.30 per copy, of the written administrative control procedures to each of the 130 affected miners in small coal mines, 360 affected miners in large coal mines, 664 affected miners in small M/NM mines and 17,882 in large M/NM mines.

Annual Costs for Coal Mines

490 miners x \$0.30	=	\$	147.00
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Annual Costs for M/NM Mines

18,546 miners x \$0.30	=	\$ <u>5,563.80</u>
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<b>TOTAL COSTS FOR ADMINISTRATIVE CONTROLS</b>		<b>5,710.80</b>
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Section 62.170(a)(1) states that the audiometric testing which results in a valid baseline audiogram must be offered within 6 months of enrolling a miner in a hearing conservation program. Where mobile test vans are used to meet the audiometric test requirements, the operator must offer and provide audiometric testing within 12 months of enrolling a miner in an HCP.

It costs the mine operator \$35 per miner, to have an audiometric test conducted by a third party. MSHA estimates 15% of the miners will be retested annually. The annual number of miners affected will be 1,170 from small coal mines, 9,806 from large coal mines, 6,072 from small M/NM mines and 10,803 from large M/NM mines.

Annual Costs for Coal Mines

10,976 miners x \$35	=	\$ 384,160.00
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Annual Costs for M/NM Mines

16,875 miners x \$35	=	\$ <u>590,625.00</u>
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<b>TOTAL ANNUAL COSTS</b>	=	<b>\$ 974,785.00</b>
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Section 62.170(b) states that after the baseline audiogram is established, the mine operator must continue to offer subsequent audiometric tests at intervals not exceeding 12 months for as long as the miner remains in the hearing conservation program.

It will cost a mine operator \$0.30 to photocopy the notice. MSHA estimates that 6,865 miners working at 1,001 small coal mines, 47,329 miners working at 651 large coal mines, 40,841 miners working at 8,004 small M/NM mines, and 86,255 miners working at 1,501 large M/NM mines will be affected by this provision. (The paperwork burden and cost of §62.170(a), concerning a baseline audiogram, are captured in the paperwork burden and cost for §62.170(b).)

Annual Costs for Coal Mines

54,194 miners x \$0.30	=	\$ 16,258.20
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Annual Costs for M/NM Mines

127,096 miners x \$0.30	=	\$ <u>38,128.80</u>
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<b>TOTAL ANNUAL COSTS</b>	=	<b>\$ 54,387.00</b>
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Section 62.171 (b) requires operators to compile an audiometric test record including: 1) name and job classification of the miner who has undergone the audiometric test; 2) a copy of all of the miner's audiograms conducted under this part; 3) evidence that the audiograms were conducted in accordance with paragraph (a) of this section; 4) any exposure determination for the miner; and 5) the results of any follow-up examination.

It costs the mine operator \$0.30 to photocopy an audiometric test record for each miner.

MSHA estimates that records will be established for 2,814 small coal miners, 10,320 large coal miners, 9,802 small M/NM miners and 14,726 large M/NM miners.

Annual Costs for Coal Mines

13,134 miners x \$0.30 = \$ 3,940.20

Annual Costs for M/NM Mines

24,528 miners x \$0.30 = \$ 7,358.40

**TOTAL ANNUAL COSTS = \$ 11,298.60**

Section 62.172(a)(1) states that audiograms must be evaluated by a physician, an audiologist, or a qualified technician who is under the direction or supervision of a physician or audiologist. This section requires the operator to inform persons evaluating audiograms of the requirements of this part and to provide them with a copy of the miner's audiometric test records.

It costs \$0.30 per miner for photocopying audiometric test records. In addition, MSHA estimates that it will cost approximately \$6 for a small mine and \$11 for a large mine to mail miners' records to physicians, audiologists, or qualified technicians.

MSHA estimates that approximately 2,444 miners in 391 small coal mines, 10,170 miners in 339 large coal mines, 8,713 miners in 789 small M/NM mines, and 14,726 miners in 380 large M/NM mines will be taking annual audiogram retests.

Annual Costs for Coal Mines

2,444 miners x \$0.30 + (391 mines (SM) X \$6) = \$ 3,079.20

10,170 miners x \$0.30 + (339 mines (LG) X \$11) = \$ 6,780.00

\$ **9,859.20**

Annual Costs for M/NM Mines

8,713 miners x \$0.30 + (789 mines (SM) X \$6) = \$ 7,347.90

14,726 miners x \$0.30 + (380 mines (LG) X \$11) = \$ 8,597.80

\$ **15,945.70**

**TOTAL ANNUAL COSTS = \$ 25,804.90**

Section 62.172(a)(3) requires the mine operator to instruct the physician, audiologist, or a qualified technician not to reveal to the mine operator any specific findings or diagnoses unrelated to the miner's hearing loss due to occupational noise or the wearing of hearing protectors without the written consent of the miner.

It will cost the mine operator \$0.30 to photocopy the written notice.

MSHA estimates that there will be 409 small coal mines, 344 large coal mines, 789 small M/NM mines, and 380 large M/NM mines affected annually.

<u>Annual Costs for Coal Mines</u>			
753 mines x \$0.30	=	\$	225.90
<u>Annual Costs for M/NM Mines</u>			
1169 mines x \$0.30	=	\$	<u>350.70</u>
<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>576.60</b>

Section 62.172(b)(1) requires the mine operator to offer and provide an audiometric retest within 30 calendar days of receiving a determination that an audiogram is invalid, provided any medical pathology has improved to the point that a valid audiogram may be obtained.

MSHA estimates that it will cost \$60 for an audiometric retest. MSHA estimates that approximately 156 miners in small coal mines, 611 miners in large coal mines, 664 miners in small M/NM mines, and 1,216 miners in large M/NM mines will be taking audiogram retests.

<u>Annual Costs for Coal Mines.</u>			
767 miners x \$60	=	\$	46,020.00
<u>Annual Costs for M/NM Mines</u>			
1880 miners x \$60	=	\$	<u>112,800.00</u>
<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>158,820.00</b>

Section 62.173(a) requires the operator to refer a miner for a clinical-audiological evaluation or an otological examination if a valid audiogram cannot be obtained due to a suspected medical pathology of the ear which the physician or audiologist believes was caused or aggravated by the miner's occupational exposure to noise or the wearing of hearing protectors.

It will cost the mine operator \$0.30 to notify an affected miner. MSHA estimates there will be 8 miners in small coal mines, 48 miners in large coal mines, 65 miners in small M/NM mines, and 137 miners in large M/NM mines who will need a clinical audiological evaluation or otological examination.

<u>Annual Costs for Coal Mines</u>			
56 miners x \$0.30	=	\$	16.80
<u>Annual Costs for M/NM Mines</u>			
202 miners x \$0.30	=	\$	60.60

Section 62.173(a) also requires the operator to pay for the cost of the clinical audiological evaluation or otological examination. The cost associated with this type of testing is \$ 250 per miner. MSHA estimates there will b 8 miners in small coal mines, 48 miners in large coal mines, 65 miners in small M/NM miners, and 137 miners in large M/NM mines affected annually.

Annual Costs for Coal Mines

56 miners x \$ 250	=	\$	14,000.00
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Annual Costs for M/NM Mines

202 miners x \$250	=	\$	<u>50,500.00</u>
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<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>64,577.40</b>
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Section 62.173(c) requires the operator to instruct the physician, audiologist, or qualified technician not to reveal to the operator any specific findings or diagnoses unrelated to the miner's occupational exposure to noise or the wearing of hearing protectors without the written consent of the miner.

It will cost the mine operator \$0.30 to photocopy the notice for each mine.

MSHA estimates that 12 small coal mines, 35 large coal mines, 12 small M/NM mines, and 2 large M/NM mines will be affected by this provision annually. (MSHA estimates that the mine operator will send one notice including instructions in both paragraphs (b) and (c)).

Annual Costs for Coal Mines

47 mines x \$0.30	=	\$	14.10
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Annual Costs for M/NM Mines

14 mines x \$0.30	=	\$	<u>4.20</u>
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<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>18.30</b>
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Section 62.174(a) requires that retraining be provided in accordance with 62.180. Section 62.180(b) requires the operator to certify the date and type of training given each miner and to retain the most recent certification for as long as the miner is enrolled in the hearing conservation program, and for at least six months thereafter.

The cost of photocopying associated with this task is estimated to be \$0.30 per miner.

MSHA estimates that 265 miners in small coal mines, 986 miners in large coal mines, 1,029 miners in small M/NM mines, and 2,079 miners in large M/NM mines will be affected by this provision annually.

Annual Costs for Coal Mines

1,251 miners x \$0.30	=	\$	375.30
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Annual Costs for M/NM Mines

3,108 miners x \$0.30	=	\$	<u>932.40</u>
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<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>1,307.70</b>
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Section 62.175(a)(1) requires the mine operator, within 10 working days of receiving the results of an audiogram, to notify the miner of the results in writing.

It will cost mine operators \$0.30 to photocopy the notice for each miner.

MSHA estimates that there will be 2,730 miners in small coal mines, 8,545 miners in large coal mines, 14,578 miners in small M/NM mines, and 16,830 miners in large M/NM mines who need to be notified annually.

<u>Annual Costs for Coal Mines</u>			
11,275 miners x \$0.30	=	\$	3,382.50
<u>Annual Costs for M/NM Mines</u>			
31,408 miners x \$0.30	=	\$	<u>9,422.40</u>
<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>12,804.90</b>

Section 62.175(a)(1) requires the operator to notify the miner of the results and interpretation of a follow-up evaluation (otological examination).

It will cost the mine operator \$0.30 to photocopy the notice for each miner.

MSHA estimates that 12 miners in small coal mines, 35 miners in large coal mines, 65 miners in small M/NM mines, and 137 miners in large M/NM mines will be affected by this provision annually.

<u>Annual Costs for Coal Mines</u>			
47 miners x \$0.30	=	\$	14.10
<u>Annual Costs for M/NM Mines</u>			
202 miners x \$0.30	=	\$	<u>60.60</u>
<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>74.70</b>

Section 62.175(a)(2) requires operators to notify miners of the need and reasons for any further testing or evaluation, if applicable.

It will cost the mine operator \$0.30 to photocopy the notice for each miner.

MSHA estimates that there will be 234 miners in small coal mines, 1,446 miners in large coal mines, 1,301 miners in small M/NM mines, and 2,472 miners in large M/NM mines affected by this provision annually.

<u>Annual Costs for Coal Mines</u>			
1,680 miners x \$0.30	=	\$	504.00
<u>Annual Costs for M/NM Mines</u>			
3,773 miners x \$0.30	=	\$	<u>1,131.90</u>
<b>TOTAL ANNUAL COSTS</b>	=	\$	<b>1,635.90</b>

Section 62.180(a) and (b) requires that within 30 days of a miner's enrollment into a hearing conservation program, the mine operator must provide the miner with training. The training must include: the effects of noise on hearing; the purpose and value of wearing hearing protectors; the advantages and disadvantages of the hearing protectors offered; the care, fitting, and use of the hearing protector worn by the miner and the various types of hearing protectors offered by the operator; the mine operator's and miner's respective tasks in maintaining the noise controls; and the purpose and value of audiometric testing and a summary of the procedures.

It will cost the mine operator \$0.30 to photocopy training certificates for each miner. There are 6,398 affected miners in small coal mines, 59,162 affected miners in large coal mines, 40,645 miners in small M/NM mines, and 86,150 miners in large M/NM mines that will be affected by this provision.

Annual Costs for Coal Mines

65,560 miners x \$0.30 = \$ 19,668.00

Annual Costs for M/NM Mines

126,795 miners x \$0.30 = \$ 38,038.50

**TOTAL ANNUAL COSTS = \$ 57,706.50**

Section 62.190(b) requires the operator to provide the first copy of a record to a person who has access, at no cost to that person, and additional copies requested by that person at reasonable cost.

It will cost the mine operator \$0.30 to photocopy a record for each miner. MSHA estimates that there are 390 miners in small coal mines, 3,944 miners in large coal mines, 11,131 miners in small M/NM mines, and 14,957 miners in large M/NM mines that will be affected by this provision annually.

Annual Costs for Coal Mines

4,334 miners x \$0.30 = \$ 1,300.20

Annual Costs for M/NM Mines

26,088 miners x \$0.30 = \$ 7,826.40

**TOTAL COSTS = \$ 9,126.60**

**TOTAL COST (ROUNDED) = \$ 5,472,050**

**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.**

The monitoring of miners noise dose is just one aspect of the annual inspection. Complete inspections are required under Section 103(a) of the Mine Act and are required four times per year for underground

miners and twice per year for surface operations. The average time required to finish a complete inspection for coal mines is 66.25 hours, and for metal and nonmetal mines is 17.9 hours. The average grade and salary of an inspector is GS 12/5, at \$31.34 per hour (base).

The recurring cost to the Federal Government each year is as follows: There are 1,221 small coal mines, 732 large coal mines 11,326 small M/NM mines and 1,447 large M/NM mines. It is estimated that mine inspectors would monitor 7 miners at small metal and nonmetal underground mines; and 6 miners at large metal and nonmetal underground mines 4 times a year. Mine inspectors would monitor 2 miners at small metal and nonmetal surface mines; and 7 miners at large metal and nonmetal surface mines 2 times a year. Based on Agency experience, it is estimated that it would take the inspector 0.50 hours to put the dosimeter on the miner, take the dosimeter off, and to calibrate the instrument.

It is further estimated that mine inspectors would monitor 7 miners at small underground coal mines; and 10 miners at large underground coal mines 4 times a year. Mine inspectors would also monitor 7 miners at small surface coal mines; and 10 miners at large surface coal mines 2 times a year. The recurring/ongoing cost to the Federal Government is estimated as follows:

#### METAL/NONMETAL

13 miners x 4 x .50 x \$31.34 (lg. and small underground MNM mines)	=	\$	814.84
9 miners x 2 x .50 x \$31.34 (lg. and small surface MNM mines)	=	\$	<u>282.06</u>
		\$	<b>1096.90</b>

#### COAL

17miners x 4 x .50 x \$ 31.34 (lg. and small underground coal mines)	=	\$	1,065.56
17 miners x 2 x .50 x \$ 31.34 (lg. and small surface coal mines)	=	\$	<u>532.78</u>
		\$	<b>1,598.34</b>

<b>TOTAL FEDERAL GOVERNMENT COSTS</b>		\$	<b>2695.24</b>
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#### **15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

Due to an increase in the number of mines and subsequently the number of miners, there is an increase in the number of respondents. However, the decrease in the number of responses and, therefore, hours reflects an updated estimate in the number of instances that trigger the requirements of MSHA's relevant noise assessment standard. The increase in costs burden reflects the increase in the number of mines and miners as well as updated estimates.

<b>Respondents:</b>	Increase of 335 (from 14,391 to 14,726)
<b>Responses:</b>	Decrease of 83,328 (from 848,081 to 764,753)
<b>Hours:</b>	Decrease of 23,454 (from 107,600 to 84,146)
<b>Costs:</b>	Increase of \$1,116,939 (from \$4,355,111 to \$5,472,050)

**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 the beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**



The results of this information collection are not scheduled for publication.

**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 has no forms associated with this collection of information on which to display an expiration date.

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

There are no certification exceptions identified with this information collection.

## **B. COLLECTIONS OF INFORMATION EMPLOYING 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 method 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.

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 frequent 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 persons(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.

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Federal Mine Safety and Health Act of 1977".*

**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.

(6)(A) The Secretary, in promulgating mandatory standards dealing with toxic materials or harmful physical agents under this subsection, shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life. Development of mandatory standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the mandatory health or safety standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(B) The Secretary of Health, Education, and Welfare, as soon as possible after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977 but in no event later than 18 months after such date and on a continuing basis thereafter, shall, for each toxic material or harmful physical agent which is used or found in a mine, determine whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine. The Secretary of Health, Education, and Welfare shall submit such determinations with respect to such toxic substances or harmful physical agents to the Secretary. Thereafter, the Secretary of Health, Education, and Welfare shall submit to the Secretary all pertinent criteria regarding any such substances determined to be toxic or any such harmful agents as such criteria are developed. Within 60 days after receiving any criteria in accordance with the preceding sentence relating to a toxic material or harmful physical agent which is not adequately covered by a mandatory health or safety standard promulgated under this section, the Secretary shall either appoint an advisory committee to make recommendations with respect to a mandatory health or safety standard covering such material or agent in accordance with paragraph (1), or publish a proposed

rule promulgating such a mandatory health or safety standard in accordance with paragraph (2), or shall publish his determination not to do so.

## INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

### SEC. 103.

(h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.