

## SUPPORTING STATEMENT

Respirator Program Records 30 CFR 56.5005 and 57.5005 (pertains to metal and nonmetal surface and underground 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.**

Sections 101(a) and 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 811(a) and 813(h), authorizes MSHA to collect information necessary to carryout its duty in protecting the safety and health of miners.

Title 30 CFR 56.5005 and 57.5005 require, whenever respiratory equipment is used, that metal and nonmetal mine operators institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning, and use of respirators. These sections (§§ 56.5005 and 57.5005) seek to control miner exposure to harmful airborne contaminants by using engineering controls to prevent contamination and vent or dilute the contaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment.

Sections 56.5005 and 57.5005 incorporate by reference requirements of the American National Standards Institute's Practices for Respiratory Protection (ANSI Z88.2-1969). These incorporated requirements mandate that miners who must wear respirators be fit-tested to the respirators that they will use. Certain records are also required to be kept in connection with respirators, including: written standard operating procedures governing the selection and use of respirators; records of the date of issuance of the respirator; and fit-test results.

**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 mine operator uses the information to properly issue respiratory protection to miners when feasible engineering and/or administrative controls do not reduce miners' exposures to permissible levels. Fit-testing records are used to ensure that a respirator worn by an individual is the same brand, model, and size respirator that was worn when that individual successfully passed a fit-test. MSHA uses the information to determine compliance with

the standard.

**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.

**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.**

Procedures are developed based on conditions at individual mines. No similar or duplicate information exists.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), 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.**

The development of a respirator program that addresses the selection, use, and care of respirators is normally not a recurring requirement but is typically a one-time project. However, in instances where the levels or types of airborne contaminants in mines change significantly, mine operators may be required to amend their respirator programs to address these new conditions. There is no specified interval for fit-testing. However, in instances where the mine operator is found to be out of compliance with respirator use or maintenance requirements, MSHA inspectors may determine that it is necessary to inspect fit-testing records for the respirators that are used by miners, to assess whether miners have been fitted with proper respirators. The health and safety of miners required to use such respirators could be jeopardized without the collection of this information.

**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 secrets, 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.**

**1**

This collection of information is consistent with the guidelines in 5 CFR 1320.5.

**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 Federal Register notice on January 19, 2011 (76 FR 3175). 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 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 13.**

2

The development of a respirator program that addresses the selection, use, and care of respirators normally is not a recurring requirement but is typically a one-time project. However, in instances where the levels or types of airborne contaminants in mines change significantly, mine operators may be required to amend their respirator programs to address these new conditions. Reference material is readily available to the mine operator. Most operators initially prepare these procedures based on the employer responsibility recommended requirements contained in ANSI Z88.2-1969, section 3.3, which references the minimal acceptable program outlined in section 3.5 (and subsequent sub-references). Respirator manufacturers also provide detailed instructions with each respirator on proper fitting and use. Based on MSHA industrial hygienists' experience, it is estimated that mine operators will spend an average of 5 hours per year to fulfill the requirements of the standards. MSHA's records show that there are approximately 400 metal and nonmetal mining/milling operations that may have to comply with this standard annually.

$$400 \text{ mines} \times 5 \text{ hours per yr.} = 2,000 \text{ hours}$$

Miners who are required to wear respirators are required to be fit-tested and records are required to be kept of the results. MSHA's records show that approximately 2,000 miners would be fit-tested once per year, requiring 15 minutes (0.25 hours) per fit-test with the record keeping being done simultaneously. Therefore, the fit-testing time estimates include a record keeping requirement of this standard. Any new miners hired, as well as currently employed miners who would be required to wear a respirator, are included in the calculation.

$$2,000 \text{ miners per yr.} \times 0.25 \text{ hour per miner} = 500 \text{ hours}$$

The ANSI standard, incorporated by reference in the MSHA standard, requires that records be kept of inspection dates and findings for respirators maintained for emergency use. Special respirators (such as those to be used in atmospheres immediately harmful to life) that are not routinely used but kept ready for emergency use are required to be inspected after each use and at least monthly to ensure that they are in satisfactory working condition. MSHA estimates that it takes 5 minutes (0.083 hours) to inspect a special emergency respirator. MSHA estimates one emergency respirator per mine.

$$12 \text{ inspections per yr.} \times 400 \text{ special emergency respirators} = 4800 \text{ responses}$$

$$4800 \text{ responses} \times 5 \text{ minutes (0.083 hour)} = 398 \text{ hours}$$

$$\text{TOTAL RESPONSES} = 400 + 2,000 + 4,800 = 7,200$$

$$\text{TOTAL BURDEN HOURS} \quad 2,898 \text{ hours}$$

Cost: Salary cost figures used in these calculations are based on Data from the U.S. Metal & Industrial Mineral Mine Salaries, Wages, & Benefits - 2009 Survey Results

Respirator program establishment and maintenance, including fit-testing and record keeping:

$$2,898 \text{ hours} \times \$59.73 \text{ safety supervisor hourly wage rate} = \$ 173,098$$

$$\text{Total Burden Hour Cost:} \quad \$ 173,098$$

**13. Provide an estimate for 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 collections 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.**

MSHA estimates that equipment and supplies required to conduct respirator fit-tests would average about \$300 per mine per year. The total cost burden is approximately \$120,000 annually for 400 mines.

Because the records are maintained by the mine operator, there are no additional costs associated with this burden other than those described in Item 12 above.

**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.**

Records are examined by MSHA personnel during routine inspections, and there is no additional cost to the Federal government associated with this burden.

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

Recent MSHA data indicates that the number of affected mines has increased slightly, resulting in an increase from approximately 300 to an estimated 400 and burden hours from 2,174 to 2,898 (an increase of 724 burden hours).

**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 on the OMB 83-I.

## **B. Collection of Information Employment 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 methods 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 person(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.