

## SUPPORTING STATEMENT

### Hoist Operators' Physical Fitness 30 CFR 56.19057 and 57.19057

#### A. JUSTIFICATION

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

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

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

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

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

No improved information technology has been identified that would reduce the burden. In order to comply with the Government Paperwork Elimination Act, mine operators may

retain the records in whatever method they choose, including using computer technology.

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

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

**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.**

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

If physicals are done on a less frequent basis, the risk to all personnel will increase accordingly, as unfit hoist operators will not be detected as frequently and will continue to operate hoists.

**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.**

This collection of information is consistent with the guidelines in 5 CFR 1320.5, and does not contain any requirements for respondents to report more than quarterly.

**8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

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

30 CFR 56/57.19057 requires that hoist operators be examined annually and certification of fitness be made and kept at each affected mine. MSHA estimates that approximately 70 metal and nonmetal mines operate hoists. On average, each mine

has two hoists operating two work shifts with an operator for each hoist every shift. Also, on average, each mine has one backup hoist operator. Thus, five persons are required to undergo annual physical examinations and certification for each affected mine [(2 shifts per mine x 2 hoist per mine x 1 hoist operator per hoist) + (1 back-up hoist operator per mine)].

Mine operators contract out the examinations and certifications to a third party (private physicians). Therefore, examination costs are included in the answer to question 13. It is estimated that it takes a clerical worker two minutes (0.0333 hours) to file each hoist operator's certification for fitness document. Hourly clerical worker salary of \$24.45 is based on data from the U.S. Metal & Industrial Mineral Mine Salaries, Wages, & Benefits Survey results for 2009.

Recordkeeping:

5 certifications X 70 mines = 350 certifications

350 hoist operator certifications x 0.0333 hours to file = 12 hours

Costs:

12 hours x \$24.45 to file = \$293

TOTAL RESPONSES: 350

TOTAL BURDEN HOURS: 12

TOTAL BURDEN HOUR COSTS: \$ 293

TOTAL RESPONDENTS: 70

**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.**

30 CFR 56/57.19057 require that hoist operators be examined annually by a physician who shall certify that the operator is physically fit to perform his or her duties. MSHA estimates that the average cost per exam and certification is \$450.

70 mines x 5 persons per mine x \$450 per examination and certification = \$157,500

TOTAL COSTS FOR EXAMINATIONS: \$157,500

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

MSHA enforcement personnel examine the records during routine inspections. There is no additional burden associated with this provision.

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

The burden hours reported in item 12 increased due to an increase in the number of mines from 64 to 70. The cost of the examinations in item 13 also increased from \$308 to \$450 per examination.

**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.**

MSHA is not seeking approval to display or not display the expiration date for OMB approval of this information collection.

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

There are no exceptions to the certification statement.

**B. Collection of Information Employment Statistical Methods**

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.