

OMB No.: 1219-0152
Periodic Medical Surveillance Examinations for Coal Miners
5/2017

Supporting Statement for Paperwork Reduction Act Submissions

OMB No. 1219-0152: 30 CFR 72.100(d) and 72.100(e)

In the answer to question 12 of this analysis, burden hours are reported in total without regard to mine size for those provisions where the time to perform the activity does not vary by mine size. Otherwise, a breakdown of burden hours are reported by mine size for provisions where the time to perform the activity varies by mine size.

SUPPORTING STATEMENT

OMB No.: 1219-0152

Information Collection Request Title: Periodic Medical Surveillance Examinations for Coal Miners

Provisions: 30 CFR 72.100(d) and 72.100(e)

Collection Instruments/ Forms: None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the *Federal Register*, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses or employ statistical methods” is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

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.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, Section 101(a) of the Mine Act, 30 U.S.C. 811 authorizes the Secretary to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal

and nonmetal mines.

Chronic exposure to respirable coal mine dust causes lung diseases including coal worker's pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis, known collectively as "black lung." There are no specific treatments to cure black lung. Chronic effects may progress even after miners are no longer exposed to respirable coal mine dust resulting in increased disability and death. Other complications, such as pulmonary and cardiac failure, may result in total disability and premature death.

Considerable progress has been made in lowering respirable coal mine dust levels since 1970 and, consequently, lowering the prevalence rate of CWP among coal miners. However, severe forms of this disease continue to be identified. Information from the federally funded Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) clearly indicate that CWP remains a key occupational health risk among the nation's coal miners. NIOSH reported CWP prevalence for miners who voluntarily participated in the Coal Workers X-ray Surveillance Program (CWXSP), which occurred from 1970 to 2009. NIOSH surveillance data (2005 to 2009) indicate that 6.9% of underground coal miners with over 25 years of exposure to respirable coal mine dust were diagnosed with CWP. Approximately 0.6% of miners with less than 10 years of respirable coal mine dust exposure were diagnosed with CWP during the same time period. These younger miners had less cumulative exposure to respirable coal mine dust than the miners with over 25 years exposure. Overall, 4.1% of all underground coal miners were diagnosed with CWP during the 2005 to 2009 time period. 79 Federal Register 24826, Table III-2. Furthermore, as of December 2015, according to the Department of Labor's (DOL) Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, the federal government has paid over \$46 billion in Federal Black Lung benefits to beneficiaries (former miners, widows, dependents) since 1970 (<http://www.dol.gov/owcp/dcmwc/statistics/TotalBenefitsPayment.htm>).

The Mine Act authorizes NIOSH to study the causes and consequences of coal-related respiratory disease, and in cooperation with MSHA, to carry out a program for early detection and prevention of pneumoconiosis. NIOSH administers the National Coal Workers' Health Surveillance Program, "Specifications for Medical Examinations of Underground Coal Miners," as specified in 42 CFR part 37. 30 CFR 72.100 contains collection requirements for these activities in paragraphs (d) and (e).

Section 72.100(d) requires that each mine operator must develop and submit for approval to NIOSH a plan in accordance with 42 CFR part 37 for providing miners with the required periodic examinations specified in 72.100(a) and a roster specifying the

name and current address of each miner covered by the plan.

Section 72.100(e) requires that each mine operator must post on the mine bulletin board at all times the approved plan for providing the examinations specified in 72.100(a).

Section 72.100(d) and (e) are requirements that mirror NIOSH information collection requirements under 42 CFR 37.4 (existing OMB No. 0920-0020). Including these requirements allows MSHA to use its inspection and enforcement authority to ensure that operators comply with these provisions.

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 respondents for this information collection are coal mine operators. The requirements in this collection are used by coal mine operators, miners, and state and federal mine inspectors.

Section 72.100(d) and (e) include requirements related to records for medical surveillance periodic examinations for underground and surface coal miners. MSHA will use the information to ensure that operators submit to NIOSH a plan for periodic examinations and a roster with names and current addresses of miners covered by the plan. In addition, the requirement to post the plan informs miners and MSHA of plan provisions and the availability of examinations.

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.

The provisions do not specify how records must be kept. However, the plan for providing periodic examinations must be posted on the mine bulletin board at all times; also, the mine operator must have a roster specifying the names and current address of each miner covered by the plan. The records may be on paper or stored electronically, provided that the records are secure, not susceptible to alteration, retrievable, and maintained at least for the time required by applicable regulations.

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.

Existing NIOSH rules require a plan for providing underground coal miners with chest x-rays and a roster of names and current mailing addresses of miners covered by the plan. MSHA's rule includes a requirement for operators to have a roster and a plan submitted to NIOSH for approval in accordance with NIOSH's regulations in 42 CFR part 37. MSHA's rule requires the plan to include providing chest x-rays, spirometry, symptom assessment, and occupational history to both underground coal miners and surface coal miners. Where NIOSH and MSHA have overlapping requirements, adherence to the NIOSH requirements will satisfy the MSHA requirements. MSHA enforces the requirements that coal mine operators provide the examinations within the time frames established under the rule and at an approved facility. This does not impose a duplicative burden. MSHA knows of no other federal or state information collection requirements that duplicate this request.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The provisions of the Mine Act and MSHA's standards and regulations apply to all mines because accidents, injuries, and illnesses can occur at any mine regardless of size. The legislative history of the Mine Act states that "it is not the intention of the Committee [on Human Resources] to distinguish mines by their size with respect to the applicability or enforcement of [MSHA's] mandatory health and safety standards" and that "the Secretary, in promulgating regulations regarding the keeping of records, and in other means of obtaining information, do so in a manner which minimizes the burden on operators consistent with his need to efficiently and effectively perform his enforcement responsibilities." [See S. Rep. No. 181, 95th Cong., 1st Sess. at 28 (1977)].

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.

Existing NIOSH regulations require mine operators to submit plans for periodic medical surveillance examinations for underground and surface coal miners and rosters of current miners and their addresses. Under 72.100, coal mine operators must submit such plans and information because all coal miners are at risk of developing black lung

disease as a result of respirable coal mine dust exposure. Miners benefit from periodic medical examinations which provide information on their health status and enable them to take actions to prevent disease progression. The frequency of submitting this data is the same as required by NIOSH.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- Requiring respondents to report information to the agency more often than quarterly;
- Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Requiring respondents to submit more than an original and two copies of any document;
- Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

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 March 14, 2017 (82 FR 13658). One public comment was received. The comment stated that there should be some formal collection of miners' health records to help prevent pulmonary diseases, and it would be practical to then use that collection to flag for further testing if a disease trend is discovered. MSHA agrees that collecting data on miners' health is important for early detection of respiratory disease and intervention to prevent its progression. However, while MSHA ensures that coal mine operators provide periodic medical examinations to coal miners under Title 30, Code of Federal Regulations, section 72.100 (30 CFR 72.100), results of the examinations are only furnished to the miner's designated physician at the request of the miner, and to NIOSH, the U.S. federal agency responsible for conducting research and making recommendations for the prevention of work-related injury and illness. NIOSH is part of the Centers for Disease Control and Prevention in the U.S. Department of Health and Human Services. NIOSH administers the Coal Workers' Health Surveillance Program (CWHSP) under 42 CFR Part 37, in which coal miners can participate voluntarily in health screenings. For more information and public data on the CWHSP, go to <https://www.cdc.gov/niosh/topics/cwhsp/default.html>.

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

MSHA will provide no payments or gifts to the respondents identified in this collection.

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

The information collections covered by this Information Collection Request (ICR) do not provide an express assurance of confidentiality. As a practical matter, a request for MSHA records containing mine operator responses would be processed in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 522) and its attendant DOL regulations at 29 CFR part 70.

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.**
- **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 under 'Annual Cost to Federal Government'.**

There are 294 respondents for underground coal mines and 929 respondents for surface coal mines for a total of 1,223 respondents.

Hourly wages in this answer are from Bureau of Labor Statistic (BLS), Occupational Employment Statistics (OES) May 2015 survey.¹ MSHA increased the OES hourly wage rates for benefits by a 1.48 benefit scaling factor to obtain fully loaded wages.²

A. Periodic Examinations

Develop Roster and Plan, and Post Plan – Section 72.100(d) and (e)

Section 72.100(d) requires each coal mine operator to develop and submit to NIOSH a plan as specified in 42 CFR part 37 for providing miners with the examinations specified in section 72.100(a) and a roster specifying the name and current address of each miner covered by the plan. Section 72.100(e) requires operators to post the approved plan on the mine bulletin board.

Under 42 CFR 37.4, each operator of an underground coal mine is required to submit to NIOSH a plan for providing miners with the required medical examinations and post the plan on the mine bulletin board. NIOSH requires the operators to submit to NIOSH an employee roster with the plan. MSHA estimates that it takes a coal supervisor, earning \$56.18 per hour³, 10 minutes to revise the roster and plan and a clerical employee, earning \$23.10 per hour⁴, 5 minutes to copy and submit the revised roster and plan and post the plan. The burden hours and related costs for underground coal mines are shown below.

Underground Coal Mine Operators

¹ For those not familiar with the OES survey, see item “E3. How to get OES data. What are the different ways to obtain OES estimates from this website?” at http://www.bls.gov/oes_ques.htm.

² The benefit scaler comes from BLS Employer Costs for Employee Compensation access by menu <http://www.bls.gov/data/> or directly with <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. The data series CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, is divided by 100 to convert to a decimal value. MSHA used the latest 4-quarter moving average 2015Qtr3-2016Qtr2 to determine that 32.65 percent of total loaded wages are benefits. The scaling factor is a detailed calculation, but may be approximated with the formula and values $1 + (\text{benefit percentage}/(1-\text{benefit percentage})) = 1 + (.3265/(1-.3265)) = 1.48$.

³ Hourly wages from OES May 2015 survey, Standard Occupational Classification (SOC) code 47-1011, First-line Supervisors of Construction Trades and Extraction Workers, Coal Mining, (NAICS code 212100). MSHA multiplied the mean wage rate of \$37.96 times the 1.48 benefit scaling factor to obtain a fully loaded hourly wage of \$56.18.

⁴ Hourly wages from OES May 2015 survey, Standard Occupational Classification (SOC) code 43-9061, Office Clerks General, Coal Mining, (NAICS code 212100). MSHA multiplied the mean wage rate of \$15.61 times the 1.48 benefit scaling factor to obtain a fully loaded hourly wage of \$23.10.

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Periodic Medical Surveillance Examinations for Coal Miners

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<u>Burden Hours</u>	
294 plans x 5 minutes	= 25 hours
294 plans x 10 minutes	= <u>49 hours</u>
Total burden hours	= 74 hours
<u>Hour Burden Costs</u>	
25 hours x \$23.10 wage rate	= \$578
49 hours x \$56.18 wage rate	= <u>\$2,753</u>
Total hour burden costs	= \$3,331

Each surface coal mine operator will develop and submit to NIOSH a roster and plan for providing the examinations required under 72.100(a). MSHA estimates that it takes a coal supervisor, earning \$56.18 per hour, 1 hour to develop the roster and plan and a clerical employee, earning \$23.10 per hour, 5 minutes to copy and submit the roster and plan and post. The burden hours and hour burden costs for surface coal mines are shown below.

Surface Coal Mine Operators

<u>Burden Hours</u>	
929 plans x 5 minutes	= 77 hours
929 plans x 1 hr.	= <u>929 hours</u>
Total burden hours	= 1,006 hours
<u>Hour Burden Costs</u>	
77 hours x \$23.10 wage rate	= \$1,779
929 hours x \$56.18 wage rate	= <u>\$52,191</u>
Total hour burden costs	= \$53,970

Revise and Post Plan

Since the periodic examinations required under 72.100(a) must be provided at least once every 5 years (72.100(b)), MSHA assumes that each year one-fifth of the mine operators will have to revise their plans to specify the 6-month period that the examinations will be available and the NIOSH-approved facility that will provide the examinations. Section 72.100(e) also requires the operator to post the approved plan. MSHA estimates that it takes a supervisor, earning \$56.18 per hour, 10 minutes to revise the plan and a clerical employee, earning \$23.10 per hour, 5 minutes to copy and submit the revised plan and post

the plan. The annual burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators - Annual

Burden Hours

59 plans x 5 minutes	= 5 hours
59 plans x 10 minutes	= <u>10 hours</u>
Total burden hours	= 15 hours

Hour Burden Costs

5 hours x \$23.10 wage rate	= \$116
10 hours x \$56.18 wage rate	= <u>\$562</u>
Total hour burden costs	= \$678

Surface Coal Mine Operators - Annual

Burden Hours

186 plans x 5 minutes	= 16 hours
186 plans x 10 minutes	= <u>31 hours</u>
Total burden hours	= 47 hours

Hour Burden Costs

16 hours x \$23.10 wage rate	= \$370
31 hours x \$56.18 wage rate	= <u>\$1,742</u>
Total hour burden costs	= \$2,112

**Question 12 Summary of
 Burden Hours, Costs and Responses**

Details	Annual Average
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Burden Hours	1,142
Hour Burden Costs	\$60,091
Responses	1,468

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

- **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.**

A. Periodic Examinations

Copy Costs for Roster and Plan Required Under Section 72.100

Section 72.100(d) requires each coal mine operator to develop and submit to the NIOSH a plan for providing miners with the required periodic examinations and a roster specifying the name and current address of miners covered by the plan.

Section 72.100(e) requires operators to post the approved plan on the mine bulletin board.

On average, MSHA estimates that a roster and plan will be two pages and copy costs are \$0.15 per page, for a total cost per copy of \$0.30. The costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

294 plans x \$0.30 per copy = \$88

Surface Coal Mine Operators

929 plans x \$0.30 per copy = \$279

Copy Costs for Revised Roster and Plan

Since the periodic examinations required under 72.100(a) must be provided at least once every 5 years (72.100(b)), MSHA assumes that each year one-fifth of the mine operators will have to revise their plans to specify the 6-month period and the NIOSH-approved facilities that will provide the examinations and to post the approved plans. On average, MSHA estimates that a revised roster and plan will be two pages and copy costs are \$0.15 per page, for a total cost per revision of \$0.30. The annual costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

59 plans x \$0.30 per copy = \$18

Surface Coal Mine Operators

186 plans x \$0.30 per copy = \$56

Summary of Costs

=\$441

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.

There are no costs to the federal government.

15. Explain the reasons for any program changes or adjustments on the burden worksheet.

The decrease is due to provisions removed from this collection from the approved rule package ICR Reference Number, 201210-1219-002. All provisions but 72.100(d) and 72.100(e) were reallocated to their respective ICR packages.

1219-0152 Initial Burden	176,321 hours (ICR Reference # 201210-1219-002)
-1219-0009	reallocated provisions in ICR reference # 201502-1219-001
-1219-0011	reallocated provisions in ICR Reference # 201406-1219-002
-1219-0088	reallocated provisions in ICR Reference # 201406-1219-005

1219-0152 Remaining Provisions: 72.100(d) and 72.100(e)

There is a program change (decrease) requested in burden hours (176,321 to 1,142) in responses (3,929,928 to 1,468) and in costs (\$53,959 to \$441).

Itemized Changes in Annual Burden Hours			
Information Collection Activity	Program Change (hours currently on OMB)	Program Change (New)	Difference

	Inventory for this ICR)		
1219-0152	176,321	1,142	-175,179
Total(s)	176,321	1,142	-175,179

Itemized Changes in Annual Cost Burden			
Information Collection Activity	Program Change (cost currently on OMB Inventory for this ICR)	Program Change (New)	Difference
1219-0152	\$53,959	\$441	-\$53,518
Total(s)	\$53,959	\$441	-\$53,518

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.

Information provided by mine operators in their plans for periodic medical surveillance examinations and rosters of names and current addresses of miners covered by the plans is not collected for the purpose of 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 associates no forms with this information collection.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no certification exceptions identified with this ICR.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

As statistical analysis is not required by the regulation, questions 1 through 5 do not apply.