SUPPORTING STATEMENT

OMB No.: 1219-0048

Information Collection Request Title: Respirator Program Records

CFR Citations: 30 CFR 56.5005 and 57.5005 (Safety and Health Standards for Metal and Nonmetal Surface and Underground Mines)

Collection Instrument(s): 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 of Labor 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 or other mines.

Title 30 CFR 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, when respiratory equipment is used (for example, while establishing controls or occasional entry into hazardous atmospheres to perform

maintenance or investigation), sections 56.5005 and 57.5005 require that metal and nonmetal mine operators institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning, and use of respirators.

Sections 56.5005 and 57.5005 incorporate by reference requirements of the American National Standards Institute's (ANSI) *American National Standards Practices for Respiratory Protection* (ANSI Z88.2-1969). These 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; medical testing; 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, or where accepted engineering controls have not been developed or when necessary by the nature of the work involved. 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.

Individual mines develop procedures based on mine conditions. No similar or duplicate information exists.

5. If the collection of information impacts small businesses or other small entities, 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 health and safety of miners required to use such respirators could be jeopardized without the collection of this information. The development of a respirator program that addresses the selection, use, and care of respirators 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 MSHA finds the mine operator 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 miners use to assess whether they are protected by appropriate respiratory protective equipment.

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.

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 March 25, 2020 (85 FR 16959). MSHA received no public comments.

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

MSHA does not provide payments or gifts to respondents.

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

There is no assurance of confidentiality provided to respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:
*** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

*** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**

*** 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 Item 13.**

Respondents. MSHA's records show that there are approximately 350 metal and nonmetal mining/milling operations that will have to comply with this standard annually.

Increased program emphasis on prevention of miners' lung disease increased the frequency of mine health inspections and corresponding health violations requiring the use of respirators during the abatement process. There are about 12,000 operating metal nonmetal mines. The current rate is one health inspection every 3.5 years (12,000/3.5 = ≈3,429). The health inspection violation rate requiring respiratory protection is approximately 10% (3,429 mines X 10 percent = 343; rounded up to 350 mines).

Labor Costs. Hourly wages for metal and nonmetal safety supervisors are from Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) May 2018 survey.[1] MSHA increased the OES hourly employment weighted average wage rates for benefits by a 1.49 benefit-scaling factor[2] and a 1.045 inflation factor[3] to obtain fully loaded wages.[4] MSHA estimates that a safety supervisor earns an hourly wage rate of $79.18 per hour.[5,6]

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[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/oes_ques.htm.

[2] The benefit scaler comes from BLS Employer Costs for Employee Compensation access by menu https://data.bls.gov/cgi-bin/srgate. 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 2018Qtr4-2019Qtr3 to determine that 32.9 percent of total loaded wages are benefits. The scaling factor = 1 + (benefits/(1-benefits)) = 1+(.329/(1-.329)) = 1.49.

[3] The inflation factor comes from BLS Employment Cost Index access by menu https://data.bls.gov/cgi-bin/srgate. The data series CIS2020000405000I, Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index is updated from Q2 2018 to Q4 2019, 138.1/132.1 = 1.045.

[4] For all wage rates, MSHA uses the relevant precision throughout the calculation to avoid compound rounding errors and rounds at the final rate value. Displayed intermediate calculation values are presented to explain the calculation and are representative but the final rate value reflects the correct rounding and final estimate.

[5] Hourly wages from OES May 2018 survey, Standard Occupational Classification (SOC) code 29-9011, Occupational Health and Safety Specialists (NAICS codes 212200, Metal Ore Mining, and 212300, Nonmetallic Mineral Mining and Quarrying, weighted by employment). MSHA multiplied the 90th percentile wage rate of $50.85 times the 1.49 benefit-scaling factor and inflation factor of 1.045 to obtain a fully loaded hourly wage of $79.18.

[6] For all wage rates, MSHA uses the relevant precision throughout the calculation to avoid compound rounding errors and rounds at the final rate value. Displayed intermediate calculation values are presented to explain the calculation and are representative but the final rate value reflects the correct rounding and final estimate.

Respirator Program Development. The development of a respirator program that addresses the selection, use, and care of respirators 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 materials are 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 use and fitting. Based on MSHA industrial hygienists' experience, MSHA estimates that mine operators will spend an average of 8 hours per year to fulfill the requirements of the standards.

350	mines x	1 program per mine	=	350 responses
350	programs x	8 hours per yr.	=	2,800 hours
2,800	hours x	$79.18 hourly wage rate	=	$221,704 cost

Fit Testing. Miners who are required to wear respirators are required by MSHA to also be fit-tested and mine operators to keep records of the results. MSHA's records show that approximately 1,750 miners would be fit-tested once per year, requiring 15 minutes per fit-test with the safety supervisors conducting the record keeping 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.

350	mines x	5 fit tests per mine	=	1,750 responses
1,750	fit tests x	15 minutes per miner	=	437.5 hours
438	hours x	$79.18 hourly wage rate	=	$34,641.25 cost

Emergency Respirator Inspections. 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 to inspect a special emergency respirator. MSHA estimates one emergency respirator per mine.

12	inspections x	350 emergency respirators	=	4,200 responses
4,200	inspections x	5 minutes per response	=	350 hours
350	hours x	$79.18 hourly wage rate	=	$27,713 cost

Summary of Question 12 Responses and Burden

Provision	Respondents	Responses	Burden Hours	Annual Burden Hour

				Costs
Program development	350	350	2,800	$221,704
Fit testing	350	1,750	437.5	$34,641.25
Emergency respirator inspections	350	4,200	350	$27,713
TOTAL	**350**	**6,300**	**3,588**	**$284,058.25**

13. Provide an estimate for 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 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 $400 per mine per year. The total cost burden is approximately $140,000 annually for 350 mines.

350 mines x $400 per mine per year = $140,000

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 personnel examine records 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 reported on the burden worksheet.

The number of respondents increased from 300 to 350 due to more frequent industrial hygiene sampling of mines for contaminants. Responses increased proportionally from 5,400 to 6,300. There was an increase in burden hours from 3,075 to 3,588, due to a corresponding proportional increase in number of mines requiring respirators. Costs increased from $90,000 to $140,000, due to increases in both the number of mines and the cost per mine.

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 ICR.

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 collection.

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

There are no exceptions to the certification statement on the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

B. Collection of Information Employing Statistical Methods

There is no statistical methodology involved in this collection.