

OMB# 1219-0049

Hoist Operator's Physical Fitness

Exp.: 11/30/20

## SUPPORTING STATEMENT

**OMB No.:** 1219-0049

**Information Collection Request Title:** Hoist Operators' Physical Fitness

**Collection Instrument(s):** None

**CFR Citations:** 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.**

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 and metal and nonmetal mines.

Title 30 CFR 56.19057 and 57.19057 require the examination and certification of hoist operators' fitness by a qualified, licensed physician within 12 months prior to operating a hoist at a metal or nonmetal mine. 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 passengers.

**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 MSHA enforcement personnel to verify that persons operating hoisting equipment are physically able to safely perform their functions.

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**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, 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 responders 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. Improper hoisting can result in bumps, sharp or unexpected movements, and improper stopping or starting of the hoist conveyance. Further, hoist operators also assist mine rescue personnel in emergency situations underground where miners may be trapped, injured, or in imminent peril. It is imperative that nothing interferes with the hoist operator's ability to perform this 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 endangering miners, mine equipment, emergency responders, and mine rescue personnel.

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**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 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 May 12, 2020 (85 FR 28039). MSHA received no public comments.

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**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.**

The wage rate for estimating hour burden costs are from Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) May 2018 survey.<sup>1</sup> MSHA increased the OES hourly wage rates for benefits by a 1.49 benefit-scaling factor to obtain fully

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<sup>1</sup> Options for obtaining OES data are available at item "E3. How to get OES data. What are the different ways to obtain OES estimates from this website?" at [https://www.bls.gov/oes/oes\\_ques.htm](https://www.bls.gov/oes/oes_ques.htm).

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loaded wages<sup>2</sup> and by a wage inflation factor of 1.045<sup>3</sup>.

Title 30 CFR 56.19057 and 57.19057 provide that "no person shall operate a hoist unless within the preceding 12 months he has had a medical examination by a qualified, licensed physician who shall certify his fitness to perform this duty," and that "such certification shall be available at the mine."

MSHA estimates that approximately 212 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)]. Clerks require an average of 2 minutes to file each certification.

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.

Recordkeeping:

5 certifications x 212 mines = 1,060 certifications

1060 hoist operator certifications x 2 minutes to file = 35 hours

Costs:

35 hours x \$27.65<sup>4</sup> to file = \$968

**TOTAL RESPONSES: 1,060**

**TOTAL BURDEN HOURS: 35**

**TOTAL BURDEN HOUR COSTS: \$968**

<sup>2</sup> 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 2018Qtr4-2019Qtr3 to determine that 32.9 percent of total loaded wages are benefits. The scaling factor may be approximated with the formula and values  $1 + (\text{benefit percentage} / (1 - \text{benefit percentage})) = 1 + (.329 / (1 - .329)) = 1.49$ .

<sup>3</sup> Wage inflation is the change in Series ID: CIS2020000405000I, <https://data.bls.gov/cgi-bin/srgate>; Seasonally adjusted; Series Title: Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index. (2019Qtr4/2018Qtr2 = 138.1/132.1 = 1.045).

<sup>4</sup> Hourly wages from OES May 2018 survey, Standard Occupational Classification (SOC) code 43-9061, Office Clerks, General (NAICS codes 212200, Metal Ore Mining, and 212300, Nonmetallic Mineral Mining and Quarrying, weighted by employment). MSHA multiplied the mean wage rate of \$17.76 times the 1.49 benefit-scaler factor and 1.045 wage inflation factor to obtain an inflation adjusted hourly wage with benefits of \$27.65 ( $\$17.76 * 1.49 * 1.045$ ). For all wage rates, hours, and estimations, MSHA uses the relevant precision throughout the calculation to avoid compound rounding errors and rounds at the final rate values. Displayed intermediate calculation values are presented to explain the calculation and are representative but the final rate values reflects the correct rounding and final estimate.

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**TOTAL RESPONDENTS: 212**

**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.**

Title 30 CFR 56.19057 and 57.19057 require that hoist operators are examined periodically 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 \$377<sup>5</sup>.

212 mines x 5 exams per mine x \$377 per examination and certification = \$399,620  
**TOTAL COSTS FOR EXAMINATIONS = \$399,620**

**14. Provide estimates of annualized costs to the Federal government. Also,**

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<sup>5</sup> 2016 Mean physician office visit \$265 plus average out of pocket costs for visits with costs \$77 = \$342. (Steven R. Machlin, MS and Emily M. Mitchell, PhD Expenses for Office-Based Physician Visits by Specialty, 2016. Statistical Brief #517. October 2018. Agency for Healthcare Research and Quality, Rockville, MD. [https://meps.ahrq.gov/data\\_files/publications/st517/stat517.shtml](https://meps.ahrq.gov/data_files/publications/st517/stat517.shtml)) adjusted for inflation factor of 1.102 equals \$377 (Feb 2020/Dec 2016 medical services inflation, BLS CPI series CUSR0000SAM2; 552.015/502.306; <https://data.bls.gov/cgi-bin/srgate>)

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**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.**

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 reported on the burden worksheet.**

The burden hours increased from 19 to 35 hours, and responses increased from 575 to 1,060 due to an increase in the number of mines with hoists from 115 to 212. Cost to respondents increased from \$182,275 to \$399,620 due to the increase in respondents and also because the cost of the examinations in item 13 increased from \$317 to \$377 per examination due to inflation and an update of the federal medical health cost statistics.

**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 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.

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

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