

**SUPPORTING STATEMENT FOR CERTIFICATION AND QUALIFICATION TO EXAMINE,
TEST, OPERATE HOISTS AND PERFORM OTHER DUTIES**

OMB CONTROL NO. 1219-0127

This ICR seeks to extend, without change, an existing information collection.

Provisions: 30 CFR 75.100, 75.155, 75.159, 75.160, 75.161, 77.100, 77.105, 77.106, 77.107, and 77.107-1

Collection Instrument(s): MSHA Form 5000-41, Safety and Health Activity Certification or Hoisting Engineers Qualification Request Form

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(a), authorizes the Secretary of Labor (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 or other mines.

Under section 103(a) of the Mine Act, authorized representatives of the Secretary or Secretary of Health and Human Services must make frequent inspections and investigations in coal or other mines each year for the purpose of gathering information with respect to mandatory health or safety standards.

Title 30 Code of Federal Regulations (CFR) 75.159 and 77.106 require coal mine operators to maintain a list of persons who are certified and qualified to perform duties under 30 CFR parts 75 and 77, such as examining for hazardous conditions, testing for methane and oxygen deficiency, conducting tests of air flow, performing electrical work, repairing energized surface high-voltage lines, and performing the duties of hoisting engineer. This information collection is necessary to ensure that only persons who are properly trained and

sufficiently experienced are permitted to perform these duties. Although MSHA does not specify a format for the recordkeeping, it normally consists of the names of the certified and qualified persons listed in two columns on a sheet of paper. One column is for certified persons and the other is for qualified persons.

Sections 75.100 and 77.100 pertain to the certification of certain persons to perform specific examinations and tests. Sections 75.155 and 77.105 outline the requirements necessary to be qualified as a hoisting engineer or hoistman. Under sections 75.160, 75.161, 77.107, and 77.107-1, the mine operator must have an approved training plan developed to train and retrain the qualified and certified persons to effectively perform their tasks.

These regulations recognize State certification and qualification programs. However, where State programs are not available, MSHA may certify and qualify miners to carry out certain functions prescribed in the Mine Act.

Under this program, MSHA will qualify or certify individuals if these individuals meet the requirements for qualification or certification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for MSHA qualification or certification are submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. MSHA Form 5000-41, Safety & Health Activity Certification or Hoisting Engineer Qualification Request, provides the coal mining industry with a standardized reporting format that expedites the certification and qualification process while ensuring compliance with the regulations. MSHA uses the information collected through this form to determine if applicants satisfy the requirements to obtain the certification or qualification. Persons must meet certain minimum experience requirements depending on the type of certification or qualification sought.

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 the mine operator and MSHA enforcement personnel to ensure that miners performing certain examinations, tests, and duties are certified, qualified, and properly trained as required by MSHA regulations.

Mine operators use MSHA Form 5000-41 to report the names of persons who have satisfactorily completed required mine foreman and hoisting training. MSHA uses the information to issue certification/qualification cards to those persons who are certified/qualified.

The mine operator also uses MSHA Form 5000-41 as an application to certify miners to perform specific required examinations and test, or to qualify miners as hoisting engineers or hoistmen, in States without certification programs. The MSHA Qualification and Certification Unit then mails the applicant a certificate. This certification satisfies MSHA requirements where State certification programs are not available.

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. However, the mine operator may retain the records in whatever method he or she chooses, which may include using computer technology. MSHA Form 5000-41 may be submitted online, by fax, or by mail.

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 A.2 above.

No duplication of the information requested exists. Records are unique to each mine.

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.

If these collections are not conducted, miners may be exposed to safety hazards such as explosion, fire, and electrical shock. The list of qualified or certified individuals ensures that only those qualified or certified to perform duties requiring specialized expertise at underground and surface coal mines conduct examinations for hazardous conditions, conduct tests for methane and oxygen deficiency, conduct tests of air flow, perform electrical work, repair energized surface high-voltage lines, and perform duties of hoisting engineer. The regulations do not specify how frequently the lists are to be updated; however, mine operators normally update them quarterly. Less frequent information collection may result in a shortage of persons qualified and certified to perform important safety and health functions at mines, which would be inconsistent with the purposes of the Mine Act. Without the lists, MSHA would not be able to effectively enforce the requirements of the Mine Act.

MSHA Form 5000-41 is an application form for miners in States without a certification/qualification program as well as the form that notifies MSHA that specific individuals have specific training. Without the information on this form, MSHA would be unable to certify or qualify any miner for specified jobs in States without certification/qualification programs or as hoisting engineers or hoistmen.

The burden on mine operators in States without certification/qualification programs could be significant because the Mine Act requires that miners be certified or qualified to perform certain examinations and tests. This collection ensures such certification and qualification.

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 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.

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.

In accordance with 5 CFR 1320.8(d), MSHA will publish the proposed information collection requirements in the *Federal Register*, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments.

9. Explain any decision to provide any payments or gifts 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 for certification or qualification other than nondisclosure of personally identifiable information (PII). Such PII includes the applicant's name and address. A nine digit MSHA Individual identification Number (MIIN) will be assigned by MSHA for the purpose of identification. MSHA requires the miner's address to mail the miner his or her certification or qualification card. Instructions concerning content, format, and required training are included with the form.

To the extent that records are kept by the Agency, they are covered by the Privacy Act (5 U.S.C. 552a) DOL/MSHA-1, Mine Safety and Health Administration Standardized Information System (MSIS), (April 29, 2016, 81 FR 25766). Manual records are stored in locked files and are accessible only to authorized personnel during working hours.

MSHA Form 5000-41 is a Privacy Act record, DOL/MSHA-1, Mine Safety and Health Administration Standardized Information System (MSIS), (April 29, 2016, 81 FR 25766). Files are posted with the appropriate Privacy Act notice. Only authorized personnel have access to the files during working hours.

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. General 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.**
- **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.**

List of Certified and Qualified Persons

In 2019 there were approximately 313 surface coal mines, 213 surface coal facilities, and 148 underground coal mines, totaling 674 operations. Each operator is required to maintain a list of certified and qualified persons who are required to perform duties under parts 75 and 77. Each coal mine operator normally updates the list each quarter. The estimated time per response to update the list of certified and qualified persons is 5 minutes. MSHA estimates that a mine supervisor earning an hourly wage rate (including benefits) of \$61.77 per hour will update the certified/qualified person lists. The wage for estimating hour burden cost is from Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) May 2019 survey¹ increased by 1.032 for wage inflation² since the May 2019 survey and a 1.49 benefit-scaling factor³ to obtain fully the loaded wage rate of \$61.77 ($\$40.17 \times 1.032 \times 1.49$). MSHA

¹ 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. MSHA used the employment weighted average hourly wage of \$40.17 from OES May 2019 survey, 3 first line supervisor Occupational Classification (SOC) code 47-1011, 49-1011, and 51,1011 (NAICS codes 212100, Coal Mining.

² Wage inflation is the change in Series ID: CIS2020000405000I; Seasonally adjusted; Series Title: Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index. ($\text{Qtr1 2020/Qtr2 2019} = 140.2/135.9 = 1.032$).

³ 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 2019Qtr2-2020Qtr1 to determine that 33 percent of total loaded wages are benefits. The scaling factor may be approximated with the formula and values $1 + (\text{benefit percentage}/(1-\text{benefit percentage})) = 1 + ($

estimates the burden cost as follows:

Responses

674 coal operations x 4 updates/year = 2,696 responses

Burden Hours

2,696 responses x 5 m per responses = 224.67 h

Costs

225 h to update lists x \$61.77 per hour = \$13,877.66__

MSHA Form 5000-41

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MSHA received 563 forms (5000-41) covering 817 miners during **fiscal year 2019**. The information collected on MSHA Form 5000-41 is readily available to the mine operator from employee records. There were 942 miners represented on the 563 total number of 5000-41 forms submitted. MSHA estimates that it will take approximately 10 minutes to complete the electronic version of Form 5000-41 and 17 minutes to complete and mail the hard copy version of Form 5000-41. Of the 563 forms submitted, 461 forms were submitted electronically and 102 were mailed. The burden estimated by MSHA is based on MSHA's knowledge of the mining industry and MSHA's frequent interaction with the mining industry. MSHA employees who have previously worked for the mining industry have substantiated this estimation. Accordingly, the hour burden is calculated as follows:

Responses

102 forms x 1 hard copy response per form = 102 responses
461 forms x 1 electronic response per form = 461 responses

Burden Hours

102 hard copy responses x 17 m per response = 28.90 h
461 electronic responses x 10 m per response = 76.83 h _

Total Hours = 105.73 h

Costs

105.73 h x \$61.77 = \$6,530.94

Total Responses

2,696 + 563 = 3,259 responses

Total Burden Hours

.33/(1-.33) = 1.49.

224.67 + 105.73 = 330.4 h

Total Cost

\$13,877.66 + \$6,531.15 = \$20,408.81

Estimated Annualized Burden Hours and Costs								
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Type of Respondent	Standard/ Data Collection Activity/ Form	No. of Respondents	Frequency of responses per Respondent	Total No. of Responses ¹	Avg. Burden per Response	Total Annual Burden ²	Avg. Hourly Wage Rate	Total Annual Respondent Cost ³
Business or other for-profit	Parts 75 and 77/Quarterly Updates	674	4	2,696	5 m	224.67 h	\$61.77	\$13,877.66
Business or other for-profit	MSHA 5000-41 (Hardcopy)	102	1	102	17 m	28.90 h	\$61.77	\$1,785.15
Business or other for-profit	MSHA 5000-41 (Electronic)	461	1	461	10 m	76.83 h	\$61.77	\$4,746.00
Total				3,259		330.40 hours (330 hours rounded)		\$20,408.81

¹ Column (e) = Column (c) x Column (d)

² Column (g) = Column (e) x Column (f)

³ Column (i) = Column (g) x Column (h)

13. Provide an estimate of 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 service 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.**

The cost of mailing the forms to MSHA is \$0.55 each.
Accordingly, the annual postage cost is estimated as follows:

Burden Cost

102 mailed forms x \$0.55 per form = \$56.10 (\$56.00 rounded)

14. Provide estimates of the 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), 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 into a single table.

MSHA enforcement personnel examine the records during routine inspections; therefore, no cost is incurred by enforcement personnel.

15. Explain the reasons for any program changes or adjustments.

The decrease in burden hours (from 465 to 330) is due to a decrease in the number of respondents (from 957 to 674) and responses (from 4,590 to 3,259). The decrease in cost (from \$77 to \$56) is due to a decrease in the number of mailed forms that need postage.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

Certification and Qualification to Examine, Test, Operate Hoists and Perform Other Duties

OMB Control Number 1219-0127

OMB Expiration Date: 2/28/21

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 will display the expiration date on MSHA Form 5000-41.

18. Explain each exception to the topics of certification statement.

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.