

Independent Contractor Registration and Identification
OMB Control Number 1219-0040
OMB Expiration Date: 2-28-2022

**SUPPORTING STATEMENT FOR INDEPENDENT CONTRACTOR REGISTRATION
AND IDENTIFICATION**

OMB CONTROL NO. 1219-0040

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

Provision(s)

| | |
|------------------------|---|
| 30 CFR 45.3(a) | Identification of independent contractors |
| 30 CFR 45.4(a) and (b) | Independent contractor register |

Collection Instrument(s): MSHA Form 7000-52, Contractor Identification (ID) Request

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 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.

Independent contractors perform services or construction at a mine. They may be engaged in any type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns.

Independent contractors vary in the number of employees, the type of work performed, and the time spent working at mine sites. Some independent contractors work only at mines while others may work one time at a mine and never return to MSHA jurisdiction. Independent contractors may also move from mine to mine or may be present at several mines at once.

The work performed can pose serious dangers to independent contractors' employees. From January 1, 2015 through December 31, 2017, 82 workers were fatally injured in mining accidents; 15 of those (or 18 percent) were employed by independent contractors.

Section 3(d) of the Mine Act states that an independent contractor is a mine operator: "*operator* means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine...."

Title 30 CFR part 45, *Independent Contractors*, sets forth information requirements and procedures for independent contractors to obtain an MSHA identification number and procedures for service of documents upon independent contractors. The information collections in this information collection request support the appropriate assessment of fines for violations by independent contractors and the deterrent effect of MSHA enforcement actions on violations by independent contractors.

Section 45.3, *Identification of independent contractor*, provides that independent contractors may voluntarily obtain a permanent identification number by submitting to MSHA their trade name, business address, telephone number, an estimate of the annual hours worked by the independent contractor on mine property for the previous calendar year, and the address of record for service of documents upon the independent contractor.

MSHA assigns an identification number (IN) to an independent contractor if the contractor requests one or, if not requested, the Agency issues an IN the first time the independent contractor is cited for a violation of either a mandatory standard or the Mine Act.

Section 45.4, *Independent contractor register*, has two provisions for collecting information:

Section 45.4(a) requires that each independent contractor provides to the production-operator in writing the trade name, business address, and telephone number; a description and location at the mine where the work is to be performed; MSHA identification number, if any; and the independent contractor's business address of record.

Section 45.4(b) requires the production-operator to maintain certain information, as required by section 45.4(a), concerning each independent contractor at the mine. This information is required to be provided to the production-operator by the independent contractor. MSHA relies on this information for inspection and enforcement purposes and it must be made available by the production-operator to any MSHA inspector upon request.

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.

MSHA uses the information from these records to determine the appropriate responsibility for compliance with safety and health standards and to be able to serve documents to the appropriate entity, either the independent contractor or the production-operator. MSHA inspectors review the information collected during mandatory inspections that are required four times a year at underground mines and twice a year at surface mines.

MSHA uses the information to issue a permanent MSHA identification number to an independent contractor. This number allows MSHA to keep track of an independent contractor's violation history so civil penalties can be assessed for violations of the Mine Act and mandatory health and safety standards.

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.

Independent contractors applying for ID numbers must use the electronic MSHA Form 7000-52 found on MSHA's website. This form may be completed on the website and submitted electronically or the form can be printed, filled out, and mailed in. Completing the form electronically is the same time burden as completing a printed copy and mailing it in.

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.

Records pertain to specific independent contractors performing work at individual mines; there is neither similar nor duplicate information available.

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

MSHA's enforcement policies are applied uniformly to production-operators/mine-operators and

independent contractors, regardless of size. However, section 45.3 considers small businesses by making the application for an identification number voluntary. This information collection does not have a significant economic 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.

Section 45.4(b) requires the production-operator to maintain certain information about each independent contractor working at the mine. Less frequent recordkeeping would mean that necessary information on some independent contractors performing work at mines would not be available to MSHA inspectors during their inspections. This would not be consistent with the Mine Act's requirement to protect the safety and health of miners.

Independent contractors need apply only one time for an identification number.

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.**

This 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 June 16, 2021 (86 FR 32069). MSHA received no public comments.

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

MSHA does not provide payment 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.

The records are maintained by mine operators and reviewed by MSHA inspectors during routine inspections. 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 in Item 13.**

All information related to quantities and inspection rates are estimated by MSHA's Headquarters Enforcement Division based on field experience with different types of mining operations, sizes of mines, and the frequency of inspections dictated by statute. Mine operators provide MSHA Headquarters Enforcement Division the number of mines and employment, and from this information MSHA Headquarters Enforcement Division tracks the number of active and inactive mines and mine types throughout the United States.

Annual burden hours and related costs calculations are shown below. MSHA used data from the May 2019 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates and adjusted the rates for benefits and wage inflation¹.

MSHA Form 7000-52, Contractor Identification (ID) Request: 30 CFR s45.3

The information for voluntary submittal to MSHA consists of four items: 1) trade name and business address; 2) an address of record for service of documents; 3) telephone number for contact during business hours; and 4) an estimate of the number of hours contractors work on mine property. In addition, the electronic form incorporates information required under 30 CFR 45.4. The required information is readily available (company letterhead, invoice, etc.) and requires little or no research by the contractor.

MSHA Enforcement Division's records show that there were 1,548 identification numbers issued to independent contractors in 2020, as follows:

¹ Options for obtaining OEWS data are available at item "E3. How to get OEWS data. What are the different ways to obtain OEWS estimates from this website?" at https://www.bls.gov/oes/oes_ques.htm. 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 2020Qtr1-2020Qtr4 to determine that 33.10 percent of total loaded wages are benefits. MSHA computes the scaling factor with a number of detailed calculations but it may be approximated with the formula and values $1 + (\text{benefit percentage}/(1-\text{benefit percentage})) = 1 + (.331/(1-.331)) = 1.49$. 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. (<https://data.bls.gov/cgi-bin/srgate>); Qtr 4 2020/Qtr 2 2019; 141.1/135.9=1.038)

| Type of Response | Coal | Metal-Nonmetal | Totals |
|--|------------|----------------|--------------|
| Contractors filing by mail | 103 | 703 | 806 |
| Contractors filing online | 150 | 592 | 742 |
| Respondents (total new contractors) | 253 | 1,295 | 1,548 |

MSHA estimates that it takes approximately 8 minutes for a clerical person earning \$30.50 per hour² to complete the application for either mail or online filing to MSHA to obtain an identification number at 1 response per respondent.

Of the 1,548 new contractors in 2020, new contractors reporting hours under 30 CFR 45.4(a) for their employees totaled 593, and new contractors not reporting hours for their employees totaled 955.

| Section 45.3 | Respondents |
|-------------------------------------|--------------|
| New Contractors not reporting hours | 955 |
| New Contractors reporting hours | 593 |
| Total Respondents | 1,548 |

30 CFR 45.4(a)

In calendar year (CY) 2020, 8,665 contractors reported hours for their employees working at mines. MSHA estimates that on average, contractor work at mines will result in approximately 6.5 reporting instances per mine each year. In CY2020, there were 11,982 mines³. MSHA also estimates that it will take an employee of the contractor about 5 minutes to comply with this standard and provide the required information to the mine operators. On average, these contractor employees earn wages of \$34.24 per hour⁴.

30 CFR 45.4(b)

Section 45.4(b) requires the mine operator to maintain certain information, as required by section 45.4(a), concerning each independent contractor at the mine. This information is required to be provided to the mine operator by the independent contractor. MSHA relies on this information

² For the contractor clerical worker hourly wage rate, MSHA used the employment weighted mean hourly wage from the OEWS May 2019 survey, for 10 occupations from Standard Occupational Classification (SOC) major group codes 43 and NAICS 213100 Support Activities for Mining. The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$30.50 ($\$19.72 \times 1.49 \times 1.038$).

³ MSHA at a Glance https://www.msha.gov/sites/default/files/Data_Reports/at-a-glance-legacy-2.12.2018.pdf

⁴ For the contract miner hourly wage rate, MSHA used the employment weighted mean hourly wage from the OEWS May 2019 survey, for 17 occupations from Standard Occupational Classification (SOC) major group codes 47 and NAICS 213100 Support Activities for Mining. The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$34.24 ($\$22.14 \times 1.49 \times 1.038$).

for inspection and enforcement purposes and it must be made available by the mine operator to any MSHA inspector upon request.

In CY2020, there were 11,982 mines. MSHA estimates that on average, contractor work at mines will result in approximately 6.5 reporting instances per mine each year. The mine operator will have to maintain a record of the information each time the contractor submits information. MSHA estimates that, on average, it takes a mine clerical employee 8 minutes earning \$31.47 per hour⁵ to maintain the required information provided by the contractor.

For the summary table which follows, all time is calculated at the full precision (e.g. minutes/60) and then rounded to two decimal places after hours are calculated. The hourly employee cost is shown rounded to two decimal places. The total burden costs for question 12 are the product of hours times rate and then rounded to two decimal places. All grand totals are rounded to whole numbers.

Estimated Annualized Respondent Cost and Hour Burden

| Activity | No. of Respondents | No. of Responses per Respondent | Total Responses | Average Burden per Response (Hours) | Total Burden (Hours) | Hourly Wage Rate | Total Burden Cost |
|-------------------|--------------------|---------------------------------|-----------------|-------------------------------------|----------------------|------------------|----------------------------|
| MSHA Form 7000-52 | 1,548 | 1 | 1,548 | 8 minutes | 206.40 | \$30.50 | \$6,295.21 |
| 30 CFR 45.4(a) | 8,665 | 77,883/8,665 | 77,883 | 5 minutes | 6,490.25 | \$34.24 | \$222,226.16 |
| 30 CFR 45.4(b) | 11,982 | 6.5 | 77,883 | 8 minutes | 10,384.40 | \$31.47 | \$326,797.07 |
| TOTAL | 21,602* | | 157,314 | | 17,080** | | \$555,318 (rounded) |

*Total unique respondents in the Respondents column is not sum of rows

** This value differs by 1 from the total burden hours published in the 60-day Federal Register notice on June 16, 2021 (86 FR 32069) of 17,081 due to rounding to whole numbers used in ROCIS.

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.)

⁵ For the mine clerical worker hourly wage rate, MSHA used the employment weighted mean hourly wage from the OEWS May 2019 survey, for 10 occupations from Standard Occupational Classification (SOC) major group codes 43 and NAICS 212000 Mining (not gas and oil). The weighted mean rate was adjusted for benefits and inflation to obtain a fully loaded rate of \$31.47 (\$20.35 x 1.49 x 1.038).

- 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.

MSHA estimates postage costs for those contractors who choose to mail their information to MSHA as follows:

$$806 \text{ written requests} \times \$1.00 \text{ mailing cost} = \$806.00$$

There are no postage costs associated with online filing or identification numbers being assigned as a result of citations being issued by MSHA inspectors.

Annual Cost Burden to Respondents or Record-keepers

| Standard/ Data Collection Activity/ Instrument | Annual Capital Start-Up Cost (investments in overhead, equipment and other one-time expenditures) | Annual Operations and Maintenance Cost (such as recordkeeping, technical/professional services, etc.) | Annual Non-Labor Cost (expenditures on training, travel and other resources) | Total Annual Cost to Respondents |
|---|---|--|--|---|
| MSHA Form 7000-52 | 0 | \$806.00 | 0 | \$806.00 |
| Total | 0 | \$806.00 | 0 | (rounded) \$806 |

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.

No federal inspection costs have been associated specifically for this information collection. The review/inspection of independent contractors working on mine property is just one aspect of an annual inspection and costs associated with processing MSHA Form 7000-52 that are received by mail are de minimis. Under section 103(a) of the Mine Act, complete inspections are required at least four times a year for underground mines and at least twice a year for surface operations.

However, if during an inspection a contractor is cited for a violation of safety or health regulations, or the Mine Act, the contractor must obtain an identification number. The cost to the Government to assign an identification number is estimated to be negligible.

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

Respondents: There has been a decrease in respondents of 1,126 (from 22,728 to 21,602).

Responses: There has been a decrease in responses of 14,293 (from 171,607 to 157,314). This is due to the decrease in respondents.

Hours: There has been a decrease of 1,450 burden hours (from 18,531 to 17,080). This decrease is due to the decrease in respondents and responses.

Costs: There has been an increase of \$178 (from \$628 to \$806). This increase is due primarily to updating higher mailing costs which are almost offset by fewer mailed responses.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA does not intend to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

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

18. Explain each exception to the certification statement.

There are no certification exceptions identified with this information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.