

Respirator Program Records
OMB Control Number: 1219-0048
OMB Expiration Date: 10/31/2023

Supporting Statement for Paperwork Reduction Act Submission

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

OMB Control Number: 1219-0048

Information Collection Request Title: Respirator Program Records

Authority:

30 CFR 56.5005 Control of exposure to airborne contaminants (Safety and Health Standards for Surface metal and Nonmetal Mines).

30 CFR 57.5005 Control of exposure to airborne contaminants (Safety and Health Standards for Underground Metal and Nonmetal 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.

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30 CFR 56.5005 (Surface metal and Nonmetal Mines - Control of exposure to airborne contaminants) and 30 CFR 57.5005 (Underground Metal and Nonmetal Mines - Control of exposure to airborne contaminants) require, whenever respiratory equipment is used, that metal and nonmetal mine operators institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning, and use of respirators. These standards seek to control miner exposure to harmful airborne contaminants by using engineering controls to prevent contamination and vent or dilute the contaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment.

30 CFR 56.5005 and 30 CFR 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 are 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; fit-test results; and records of emergency respirators inspection.

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.

MSHA has submitted a request to discontinue OMB Control Number 1219-0048, eliminating all paperwork burden associated with the Information Collection (IC). This IC will discontinue upon the effective date of the Respirable Crystalline Silica final rule.

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.

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. MSHA published a 60-day Federal Register notice on March 21, 2023 (88 FR 54). No comments received.

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.

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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 mandatory standard annually. Program emphasis on prevention of miners' lung disease is achieved by conducting mine health inspections and citing health violations requiring the use of respirators during the abatement process. There are about 12,049 operating metal nonmetal mines. The current rate is one health inspection every 3.5 years ($12,049/3.5 = 3,443$ mines per year). The health inspection violation rate requiring respiratory protection is approximately 10 percent, that is, $3,443$ mines X 10 percent = 344 mines; rounded up to 350 mines per year.

Wage Rates Determinations¹

MSHA used data from the May 2021 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates² and adjusted the rates for benefits³ and wage inflation⁴. The occupations listed below in Table 12-1 are those that were determined to be relevant for the cost calculations.

Table 12-1 Hourly Wage Rates

Occupation	NAICS Code	A 90 th Percentile Wage Rate**	B Benefit Multiplier	C Inflation Multiplier	A x B x C Loaded Hourly Wage Rate
Safety Supervisor*	212200, 212300	\$54.12	1.488	1.043	\$83.99

*The Standard Occupation Code (SOC) used for this occupation is (19-5011).

**The 90th percentile wage rate was used for safety supervisor to indicate a supervisor from the Occupational Health and Safety Specialists occupational group. This was done due to the complexity of the required tasks.

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 safety supervisors will spend an average of 8 hours per year to fulfill the requirements of the standards to develop or amend their respirator programs.

¹ 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.

² 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.

³ The benefit multiplier comes from BLS Employer Costs for Employee Compensation accessed by menu at <http://data.bls.gov/cgi-bin/srgate> or directly with <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. Insert the data series CMU2030000405000D and CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, which is divided by 100 to convert to a decimal value. MSHA used the latest 4-quarter moving average to determine what percent of total loaded wages are benefits. MSHA computes the benefit multiplier with a number of detailed calculations, but it may be approximated with the formula $1 + (\text{benefit percentage} / (1 - \text{benefit percentage}))$.

⁴ 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> ; Inflation Multiplier = (Current Quarter Cost Index Value / OEWS Wage Base Quarter Index Value).

Table 12-2 Develop Respiratory Protection Program

Occupation	Number of Respondents (MNM Mines)	Number of Responses per Respondent	Number of Responses	Hours per Response	Burden Hours	Wage	Burden Cost
Safety supervisor	350	1	350	8	2,800	\$83.99	\$235,159.72

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 an average of 5 miners for each of the 350 MNM mines would be fit-tested once per year, requiring 15 minutes per fit-test per miner 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.

Table 12-3 Fit-Testing

Occupation	Number of Respondents (mines)	Number of Responses per Respondent	Number of Responses	Minutes per Response	Burden Hours	Wage	Burden Cost
Safety supervisor	350	5	1,750	15	438	\$83.99	\$36,743.71

Emergency Respirator Inspections. The ANSI standard, incorporated by reference in the MSHA standard, requires that records be kept of inspection dates and findings of 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 on average it takes a safety supervisor 5 minutes to inspect a special emergency respirator. MSHA estimates on average there is one emergency respirator per mine, a total of 350 emergency respirators for monthly inspection.

Table 12-4 Emergency Respirator Inspections

Occupation	Number of Respondents (Emergency Respirators)	Number of Responses per Respondent	Number of Responses	Minutes per Response	Burden Hours	Wage	Burden Cost
Safety supervisor	350	12	4,200	5	350	\$83.99	\$29,394.96

Table 12-5 Summary of Question 12 Responses and Burden

Provision	Respondents	Responses	Burden Hours	Annual Burden Hour Costs
RPP Program Development	350	350	2,800	\$235,159.72
Fit Testing	350	1,750	437.5	\$36,743.71
Emergency Respirator Inspections	350	4,200	350	\$29,394.96
Total	350	6,300	3,588 (rounded)	\$301,298 (rounded)

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 there are no additional costs associated with this collection of information.

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.

Respondents: The number of respondents is the same.

Responses: The number of responses is the same.

Burden Hours: The number of burden hours is the same.

Respondents or Recordkeeping Costs: The estimated annual cost burden to respondents or recordkeeper decreased from \$140,000 to \$0 due to a modification to what costs contribute to recordkeeping and information collection burdens.

Table 15-1

	Previous	Current	Difference
Respondents	350	350	0
Responses	6,300	6,300	0
Burden Hours	3,588	3,588	0
Respondents or Recordkeeping Costs	\$140,000	\$0	-\$140,000

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.”

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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.