

Hoist Operator's Physical Fitness
OMB Control Number: 1219-0049
OMB Expiration Date: 1/31/2024

**Supporting Statement for Hoist Operators' Physical Fitness
Paperwork Reduction Act Submission**

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

OMB Control Number: 1219-0049

Information Collection Request Title: Hoist Operators' Physical Fitness

Authority:

30 CFR 56.19057 Hoist operator's physical fitness (Surface Metal and Nonmetal Mines)
30 CFR 57.19057 Hoist operator's physical fitness (Underground Metal and Nonmetal Mines)

Type of OMB Review: Extension

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, as amended (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 (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 and metal and nonmetal mines.

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30 CFR 56.19057 - Hoist operator's physical fitness (Surface Metal and Nonmetal Mines) and 57.19057 - Hoist operator's physical fitness (Underground Metal and Nonmetal Mines) 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.

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 (GPEA), 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 physical exams 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.

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.

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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 August 1, 2023 (88 FR 146). One comment received that was not relevant to the information collection request. The comment was spam.

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

MSHA does not provide payments or gifts to respondents.

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

There is no assurance of confidentiality provided to respondents.

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

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under Item 13.**

Respondents

MSHA estimates that there are approximately 803 hoist operators that require a medical examination by a qualified licensed physician each year. MSHA received responses from 8 of 15 district offices providing information for hoist operators at the metal and nonmetal mines within the district's jurisdiction for the calendar year 2022. The 8 of 15 districts (53% response) reported 428 hoist operators requiring a medical examination. The average number of hoist operators per district equals 53.5 ($428 / 8 = 53.5$). Using the average number of hoist operators per district multiplied by the total number of districts equals 803 ($53.5 \times 15 = 802.5$, rounded up to 803).

Mine operators contract out the physical examinations and certifications to a third party (private physicians). Therefore, examination costs are included in the answer to question 13.

Wage Rates Determinations¹

MSHA used data from the May 2022 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates² and adjusted the rates

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.

for benefits,³ wage inflation,⁴ and overhead costs⁵. 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	Mean Wage Rate	Benefit Multiplier	Inflation Multiplier	Overhead Cost Multiplier	Loaded Hourly Wage Rate
		A	B	C	D	A x B x C x D
Clerk*	212200 212300	\$23.75	1.487	1.022	1.17	\$42.23

Note: MSHA used the latest 4-quarter moving average 2022Q1-2022Q4 to determine that 32.8 percent of total loaded wages are benefits for private industry workers in construction, extraction, farming, fishing, and forestry occupations. The benefit multiplier is $1.487 = 1 + (0.328 / (1 - 0.328))$. The inflation multiplier of 1.022 was determined by using the employment price index from the most current quarter data is available, 2022Q4, divided by the base year and quarter of the OEWS employment and wage statistics, 2022Q2, for private industry workers in construction, extraction, farming, fishing, and forestry occupations, current dollar index. The inflation multiplier is $1.022 = 153.8 / 150.5$. MSHA used the overhead multiplier of 1.17.

*The Standard Occupation Codes (SOCs) used for this occupation are (43-3021), (43-3031), (43-3051), (43-3061), (43-4171), (43-5061), (43-5071), and (43-9061).

Medical Examinations

30 CFR 56.19057 (Surface Metal and Nonmetal Mines) and 30 CFR 57.19057 (Underground Metal and Nonmetal Mines) 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 there are 803 hoist operators in Metal and Nonmetal mines. Clerks require an average of 2 minutes to file a certification for each hoist operator.

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 at <https://data.bls.gov/cgi-bin/srgate>. Inflation multiplier = (current quarter cost index value / OEWS wage base quarter index value).

⁵ MSHA used an overhead rate of 17 percent. This overhead rate is based on a 2002 EPA report by Cody Rice, "Wage Rates for Economic Analysis of the Toxics Release Inventory Program", available at <https://www.regulations.gov/document/EPA-HQ-OPPT-2016-0387-0064>.

Table 12-2. Medical Examinations (56.19057 and 57.19057)

Occupation/ Rule Section	Number of Respondents (Hoist Operators)	Responses per Respondent	Number of Responses (Certifications)	Average Burden Minutes per Response	Total Annual Burden Hours	Average Hourly Wage Rate	Annual Burden Cost
Clerk	803	1	803	2	26.8	\$42.23	\$1,130.39
Subtotal (Rounded)	803		803		27		\$1,130

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.

30 CFR 56.19057 and 30 CFR 57.19057 require that hoist operators are examined periodically by an external 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 for each of the 803 hoist operators is \$404.93.⁶

⁶ 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.

Table 13-1. Medical Examinations (56.19057 and 57.19057)

Activity/Rule Section	Respondents (Hoist Operators)	Responses per Respondent	Number of Responses (Certifications)	Cost per Item (Certification)	Total Annual Cost
Medical Examinations	803	1	803	\$404.93	\$325,157.18
Subtotal (rounded)	803		803		\$325,157

14. Provide estimates of annualized costs 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.

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.

Respondents: The number of respondents decreased from 1,060 to 803 number of mines with hoists.

Responses: The number of responses decreased from 1,060 to 803 due to the decrease in the number of respondents.

Burden Hours: The number of burden hours decreased from 35 to 27 due to the decreases in the number of respondents.

Respondents or Recordkeeping Costs: The estimated annual costs remain the same.

Table 15-1. Summary of Changes

	Previous	Current	Differenc
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https://meps.ahrq.gov/data_files/publications/st517/stat517.shtml). This 2016 value is adjusted for medical services inflation using BLS CPI series CUSR0000SAM2, with index value 594.657 in March 2023 and 502.333 in December 2016, <https://data.bls.gov/cgi-bin/srgate>). This yields an inflation factor of 1.184 (= 594.657/502.333) and the average physician office visit costs of \$404.93 (=342*1.184).

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Respondents	1,060	803	-257
Responses	1,060	803	-257
Burden Hours	35	27	-8
Respondent or Recordkeeper Costs	\$399,620	\$325,157	-\$74,463
Federal Costs	\$0	\$0	\$0
Federal Hours	0	0	0

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.