

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

**Supporting Statement for Petitions for Modification of Mandatory Safety Standards
Paperwork Reduction Act Submission**

This information collection request (ICR) seeks to extend, without change, a currently approved information collection.

OMB Control Number: 1219-0065

Information Collection Request Title: Petitions for Modification of Mandatory Safety Standards

Type of OMB Review: Extension

Authority:

Part 44 - Rules of Practice for Petitions for Modification of Mandatory Safety Standards

Subpart A - General

30 CFR 44.5 - Notice of a granted petition for modification.

30 CFR 44.9 - Posting of Petition

Subpart B - Initial Procedure for Petitions for Modification

30 CFR 44.10 - Filing of Petition; Service

30 CFR 44.11- Contents of Petition

30 CFR 44.12- Procedure for Public Notice of Petition Received

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.

Petitions for Modification of Mandatory Safety Standards

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Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 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, metal, and nonmetal mines.

In order to fulfill the statutory mandates to promote miners' health and safety, MSHA requires the collection of information under the information collection request entitled Petitions for Modification of Mandatory Safety Standards. The information collection is intended to ensure the merits of the petition for the purpose of deciding whether or not to grant it and, if granted, whether there is a need for any additional terms or conditions.

If a mine operator, or a representative of miners at a mine, wishes to modify the requirements of an existing MSHA safety standard to achieve the purpose of the standard by means different than those required by the standard, they may petition the requirement. The petitioning party would be responsible for proposing an alternative that is proven to be at least as safe for miners as the mandatory requirement. MSHA will grant a petition for modification if the agency determines that the requested alternative provides miners at least the same level of protection as the existing standard. Under 30 CFR part 44, the procedures and rules of practice are set forth to govern petitions for modification of mandatory safety standards filed under section 101(c) of the Mine Act.

I. Prepare and File Petition for Modification

In order to fulfill the requirements of the petition for modification, mine operators, or representative of the miners, must file the petition with MSHA and serve a copy of the petition to the other party, either the representative of the miners, or the mine operator. The petition must include a statement about the modification, proposed alternative, or that the requirement diminishes the safety of miners at the site and any facts substantiating that the petition is warranted.

Under 30 CFR 44.10, a petition for modification of the application of a mandatory safety standard under section 101(c) of the Mine Act may be filed only by the mine operator of the affected mine or any representative of the miners at such mine. All petitions must be in writing and must be filed with the Director, Office of Standards, Regulations, and Variances. If the petition is filed by a mine operator, a copy of the petition must be served by the mine operator upon a representative of miners at the affected mine. If the petition is filed by a representative of the miners, a copy of the petition must be served by the representative of miners upon the mine operator. Service must be accomplished personally or by registered or certified mail, return receipt requested.

Under 30 CFR 44.11(a), a petition for modification must contain:

- 1) The petitioner's name and address;
- 2) The mailing address and mine identification number of the mine or mines affected;

- 3) The mandatory safety standard to which the petition is directed;
- 4) A concise statement of the modification requested and whether the petitioner proposes to establish an alternate method in lieu of the mandatory safety standard, or alleges that application of the standard will result in diminution of safety to the miners affected, or requests relief based on both grounds;
- 5) A detailed statement of the facts that show the grounds upon which a modification is claimed or warranted; and,
- 6) Identification of any representative of the miners at the affected mine, if the petitioner is a mine operator.

II. Post Petition for Modification

It is important for all miners to be aware of potential modifications. Under 30 CFR 44.9, a mine operator must, when there is no representative of miners, post a copy of each petition for modification concerning the mine on the mine bulletin board and must maintain the posting until a ruling on the petition becomes final.

III. MSHA Publish Public Notice of Petition for Modification

Based on who initiated the modification, MSHA will notify all applicable parties and publish the modification for public awareness. Under 30 CFR 44.12(a), within 15 days from the filing of a petition for modification, MSHA will give notice of the petition to each known representative of miners or the operator of the affected mine, as appropriate, and shall publish notice of the petition in the *Federal Register*.

IV. MSHA Publishing Final Action Granting Petition for Modification

Final decisions on modifications, including any reasoning, are published so that all stakeholders are aware of the outcome. Under 30 CFR 44.5(a), every final action granting a petition for modification must be published in the *Federal Register*. Every such final action published must specify the statutory grounds upon which the modification is based and a summary of the facts which warranted the modification.

V. Post Final Action Granting Petition for Modification

The final decision must be made available to miners, once available. Under 30 CFR 44.5(b), every final action or a summary thereof granting a petition for modification must be posted by the operator on the mine bulletin board at the affected mine and remain posted as long as the modification is effective. If a summary of the final action is posted on the mine bulletin board, a copy of the full decision must be kept at the affected mine office and made available to the miners.

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

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The process of preparing, submitting, reviewing, and granting petitions for a petition for modification is:

- Step 1: A mine operator, a representative of miners, or a third party prepares and files a petition for modification to MSHA.
- Step 2: The mine operator or representative of miners serves petition for modification to the other party.
 - (a) If the petition is filed by a mine operator, a copy of the petition must be served by the mine operator upon a representative of miners at the affected mine.
 - (b) If the petition is filed by a representative of the miners, a copy of the petition must be served by the representative of miners upon the mine operator.
- Step 3: The mine operator posts a copy of the petition for modification on the mine bulletin board.
- Step 4: MSHA conducts an initial review.
- Step 5: MSHA publishes a notice of the petition for modification in the *Federal Register*.
- Step 6: MSHA conducts an investigation.
- Step 7: MSHA reviews the petition for modification.
- Step 8: MSHA takes a final action and determines whether to grant a petition for modification. If granted, MSHA publishes a final action in the *Federal Register*.
- Step 9: The mine operator posts final action granting a petition for modification at the mine bulletin board.

The costs of steps 1, 2, 3, and 9 are covered in Question 12. Part of costs in steps 1 are covered in Question 13. Costs of steps 4, 5, 6, 7, and 8 are covered in Question 14.

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.

Upon receipt of a petition, MSHA publishes a notice in the *Federal Register* advising interested parties that they may provide comments or other relevant information on the proposed modification in writing. Thereafter, MSHA conducts an investigation to determine the merits of the petition in order to decide whether to grant it and, if granted, whether there is a need for any additional terms or conditions.

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.

MSHA accepts but does not require electronic submission of petitions for modification. Under 30 CFR 44.6(b), all documents filed subsequent to a petition for modification may be served personally, by first class mail, or by telecopier or other electronic means. In order to comply with the Government Paperwork Elimination Act, mine operators may retain the records in whatever method they chose, which may include utilizing computer technology to store and submit the records electronically.

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 similar or duplicate information is available or submitted to MSHA.

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

The information collection provisions apply to all mine operations, both large and small. Congress intended that the Secretary enforce the law at all mining operations within the Agency's jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. [S. Rep. No. 95-181 (1977)]. Section 103(e) of the Mine Act, 30 U.S.C. 813(e), directs the Secretary not to impose an unreasonable burden on small businesses when obtaining any information under the Mine Act. MSHA considered the burden on small mines when developing the collection. Hence, MSHA believes that these information collection requirements are imposed on all mining operations and do not have a significant impact on a substantial number of small business 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.

Where mine operators or miner representatives are not able to file petitions for modification, unnecessary costs or other burdens may be imposed upon them, or the safety of miners may be compromised. Each petition for modification must be investigated by MSHA on a mine-by-mine basis and a decision reached on the merits. A mine operator may only request modification of one mandatory safety standard for each petition. However, a mine operator may file a petition for more than one mine by showing that identical issues of law and fact exist for each mine.

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 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 provided 60 days for the public to submit comments. MSHA published a 60-day Federal Register

notice on October 23, 2024 (89 FR 84629). MSHA received 2 comments. Both comments were from Joshua Davis. Comment 1 stated that “Against having my information collected as a attempt to sabotage citizens” and Comment 2 stated “I need more information on the safety standards”. In regard to Comment 1, MSHA takes no action as the comment is not relevant to information collection. In regard to Comment 2, the safety standards are in 30 CFR.

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.

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 ‘Annual Cost to Federal Government’.

Respondents

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 tracks the number of active and inactive mines and mine types throughout the United States.

Based on MSHA records of petitions for modification received between CY 2021 through CY 2023, there were an average of 46 petitions for modifications each year. MSHA estimates that approximately 80 percent (or 37 petitions) are prepared by mine operators. MSHA assumes that all petitions will be filed by mine operators or on behalf of mine operators for calculation purpose. The remainder 20 percent (or 9 petitions) are prepared by third-party sources and the associated information collection costs are addressed in Question 13. Of those 37 petitions prepared by mine operators, 94 percent (or 35 petitions) are submitted by coal mine operators and 6 percent (or 2 petitions) are submitted by metal and nonmetal (MNM) operators. Of the total 46 petitions 43 will be in coal mines and three in MNM. Of the 46 petitions, 75 percent will be approved (35 petitions), 33 will be in coal mines and two in MNM mines. Table 12-1 shows MSHA’s estimation of the number of petitions broken down by mine type and who the petition is submitted by.

Table 12-1. Mine Breakdown by Mine Type and Petition Filer Estimation

All Petitions	Percent of Petitions	Number of Petitions
Mine Operator	80%	37
Third-Party Sources	20%	9
Total	100%	46
Mine Operators Filed Petitions	Percent of Petitions Filed by Mine Operators	Number of Mine Operators Filed Petitions
Coal Mines Submitting Petitions	94%	35
MNM Mines Submitting Petitions	6%	2
Total	100%	37
All Petitions	Percent of Petitions	Number of Petitions
Petitions in Coal Mines	94%	43
Petitions in MNM Mines	6%	3
Total	100%	46
Approved Petitions	Percent of Approved Petitions	Number of Petitions
Approved Petitions in Coal Mines	94%	33
Approved Petitions in MNM Mines	6%	2
Total	100%	35

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

Wage Rates Determinations¹

MSHA used data from the May 2023 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates² and adjusted the rates for benefits,³ wage inflation,⁴ and overhead costs.⁵ The occupations listed below in Table 12-2 are those that were determined to be relevant for the cost calculations.

Table 12-2. 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
Coal Clerk [a]	212100	\$22.81	1.465	1.027	1.01	\$34.66
MNM Clerk [a]	212200 212300	\$24.90	1.465	1.027	1.01	\$37.83
Coal Mining Supervisor [b]	212100	\$52.49	1.465	1.027	1.01	\$79.76
MNM Mining Supervisor [b]	212200 212300	\$41.81	1.465	1.027	1.01	\$63.53

Notes: MSHA uses the latest 4-quarter moving average 2023Q2-2024Q1 to determine that 31.8 percent of total loaded wages are benefits for private industry workers in construction, extraction, farming, fishing, and forestry occupations. The benefit multiplier is $1.465 = 1 + (0.318 / (1 - 0.318))$. The inflation multiplier is determined by using the employment price index from the most current quarter, 2024Q1, divided by the base year and quarter of the OEWS employment and wage statistics, 2023Q2, for private industry workers in construction, extraction, farming, fishing, and forestry occupations, current dollar index. The inflation multiplier is $1.027 = 161.6 / 157.3$. MSHA uses the overhead multiplier of 1.01.

[a] The Standard Occupation Codes (SOC) for this occupation are (43-3021), (43-3031), (43-3051), (43-3061), (43-

¹ For all wage rates, including Federal 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 To obtain OEWS data, follow BLS's directions in its Frequently Asked Questions: "E. How to get OEWS data. 4. What are the different ways to obtain OEWS estimates from this website?" at https://www.bls.gov/oes/oes_ques.htm. The average wage rate is calculated as the employment-weighted average of hourly mean wages for the occupation.

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 at <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 uses 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).

⁵ MSHA uses an overhead rate of 1 percent. The mining environment generally involves very little overhead, especially costs associated with workers engaged in administrative or clerical tasks.

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

4171), (43-5061), (43-5071), and (43-9061).

[b] The SOCs for this occupation are (47-1011), (49-1011), (51-1011), and (53-1047).

Hour Burden

I. Prepare Petition for Modification

Under 30 CFR 44.10, a mine operator or any representative of miners may make a petition for modification of the application of a mandatory safety standard. MSHA estimates that there will be 35 petitions from coal mines and two from MNM mines prepared by mine operators. These petitions will take 40 hours each and will be done by a coal or MNM mining supervisor, earning \$79.76 or \$63.53 per hour, respectively.

Table 12-3. Estimated Annual Respondent Hour and Cost Burden, Prepare Petition for Modification (30 CFR 44.10)

Activity (Occupation)	Number of Respondents (Mines)	Number of Responses per Respondent	Total Responses (Petitions)	Burden per Response (Hours)	Annual Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Prepare Petition (Coal Mining Supervisor)	35	1	35	40	1,400	\$79.76	\$111,664.00
Prepare Petition (MNM Mining Supervisor)	2	1	2	40	80	\$63.53	\$5,082.40
Subtotal (Rounded)	37		37		1,480		\$116,746

II. Post Petition of Modification

Under 30 CFR 44.9, a mine operator must, when there is no representative of miners, post a copy of each petition for modification concerning the mine on the mine bulletin board and must maintain the posting until a ruling on the petition becomes final.

MSHA estimates that all 46 petitions are prepared by mine operators. MSHA assumes that all mine operators will post the petition for modification on the mine's bulletin board. MSHA estimates that out of these 46 petitions, 43 petitions are from coal mines and three are from MNM mines. MSHA estimates that to make copies of the petition and to post the petition to the mine bulletin board will take 10 minutes. This will be done by a coal or MNM clerk, earning \$34.66 or \$37.83 per hour respectively.

Table 12-4. Estimated Annual Respondent Hour and Cost Burden, Post Petition for Modification (30 CFR 44.9)

Activity (Occupation)	Number of Respondents (Mines)	Number of Responses per Respondent	Total Responses (Petitions)	Burden per Response (Hours)	Annual Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Post Petition (Coal Clerk)	43	1	43	0.17	7.17	\$34.66	\$248.40
Post Petition (MNM Clerk)	3	1	3	0.17	0.50	\$37.83	\$18.92
Subtotal (Rounded)	46		46		8		\$267

III. Serve Petition for Modification

Under 30 CFR 44.10, if the petition is filed by a mine operator, a copy of the petition must be served by the mine operator upon a representative of miners at the affected mine.

MSHA estimates that all 46 petitions are prepared by mine operators. MSHA assumes that all mine operators will post the petition for modification on the mine’s bulletin board and serve the petition for modification to a representative of miners. MSHA estimates that out of these 46 petitions, 43 petitions are from coal mines and three are from MNM mines. MSHA estimates that to make copies of the petition and serve the petition to the miners’ representative will take 10 minutes. This will be done by a coal or MNM clerk, earning \$34.66 or \$37.83 per hour respectively.

Table 12-5. Estimated Annual Respondent Hour and Cost Burden, Serve Petition for Modification (30 CFR 44.10)

Activity (Occupation)	Number of Respondents (Mines)	Number of Responses per Respondent	Total Responses (Petitions)	Burden per Response (Hours)	Annual Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Serve Petition (Coal Clerk)	43	1	43	0.17	7.17	\$34.66	\$248.40
Serve Petition (MNM Clerk)	3	1	3	0.17	0.50	\$37.83	\$18.92
Subtotal (Rounded)	46		46		8		\$267

IV. Post Final Action Granting Petition for Modification

Under 30 CFR 44.5(b), every final action granting a petition for modification must be posted by the operator on the mine bulletin board at the affected mine and remain posted as long as the modification is effective. If a summary of the final action is posted on the mine bulletin board, a

copy of the full decision must be kept at the affected mine office and made available to the miners.

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

MSHA estimates that 75 percent (or 35 petitions) are approved, 33 from coal mines and two from MNM mines. MSHA estimates that to make copies of the final action and to post the final action to the mine bulletin board will take 10 minutes. This will be done by a coal or MNM clerk, earning \$34.66 or \$37.83 per hour respectively.

Table 12-6. Estimated Annual Respondent Hour and Cost Burden, Post Final Action Granting Petitions for Modification (30 CFR 44.5(b))

Activity (Occupation)	Number of Respondents (Mines)	Number of Responses per Respondent	Total Responses (Petitions)	Burden per Response (Hours)	Annual Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Post Final Action (Coal Clerk)	33	1	33	0.17	5.50	\$34.66	\$190.63
Post Final Action (MNM Clerk)	2	1	2	0.17	.33	\$37.83	\$12.61
Subtotal (Rounded)	35		35		6		\$203

Hour Burden Summary

The annual respondent hour and cost burden is summarized in the Summary Totals table below.

Table 12-7. Estimated Annual Respondent Hour and Cost Burden, Summary Totals

Activity	Number of Respondents	Number of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
I. Prepare Petition for Modification	37	1	37	40	1,480		\$116,746.40
II. Post Petition	46	1	46	0.17	7.67		\$267.31
III. Serve Petition	46	1	46	0.17	7.67		\$267.31
IV. Post Final Action Granting Petition	35	1	35	0.17	5.83		\$203.24
Total (Rounded)	46		164		1,501		\$117,484

Note: The total number of respondents is not a sum of respondents from each cost category. They are the total number of all parties filed petitions for modifications.

13. Provide an estimate of 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 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 used data from the May 2023 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates⁶ and adjusted the rates for benefits,⁷ wage inflation,⁸ and overhead costs.⁹ The occupations listed below in Table 13-1 are those that were determined to be relevant for the cost calculations.

⁶ To obtain OEWS data, follow BLS's directions in its Frequently Asked Questions: "E. How to get OEWS data. 4. What are the different ways to obtain OEWS estimates from this website?" at https://www.bls.gov/oes/oes_ques.htm. The average wage rate is calculated as the employment-weighted average of hourly mean wages for the occupation.

⁷ The benefit multiplier comes from BLS Employer Costs for Employee Compensation accessed by menu at <http://data.bls.gov/cgi-bin/srgate> or directly at <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 uses 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 $1 + (\text{benefit percentage} / (1 - \text{benefit percentage}))$.

⁸ 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).

⁹ MSHA uses an overhead rate of 1 percent. The mining environment generally involves very little overhead, especially costs associated with workers engaged in administrative or clerical tasks.

Table 13-1. 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
Lawyer [a]	213100	\$113.40	1.465	1.027	1.01	\$172.32

Notes: MSHA uses the latest 4-quarter moving average 2023Q2-2024Q1 to determine that 31.8 percent of total loaded wages are benefits for private industry workers in construction, extraction, farming, fishing, and forestry occupations. The benefit multiplier is $1.465 = 1 + (0.318 / (1 - 0.318))$. The inflation multiplier is determined by using the employment price index from the most current quarter, 2024Q1, divided by the base year and quarter of the OEWS employment and wage statistics, 2023Q2, for private industry workers in construction, extraction, farming, fishing, and forestry occupations, current dollar index. The inflation multiplier is $1.027 = 161.6 / 157.3$. MSHA uses the overhead multiplier of 1.01.

[a] The Standard Occupation Code (SOC) used for this occupation is (23-1011).

I. Third-party Prepare Petition for Modification

MSHA estimates that approximately 20 percent of petitions for modification (or 9 petitions) are prepared by third-party sources (independent legal counsel). MSHA estimates that it takes an independent counsel, earning \$172.32 per hour, approximately 16 hours to prepare a petition. This will be a total of 144 hours spent preparing the 9 petitions.

Table 13-2. Estimated Annual Respondent or Recordkeeper Cost Burden, Third-party Prepare Petition for Modification

Cost Component	Number of Responses (Mines)	Hours per Response	Total Burden (Hours)	Hourly Wage	Cost to Recordkeepers
Third-party Prepare Petition (Lawyer)	9	16	144	\$172.32	\$24,814.08
Total (Rounded)	9		144		\$24,814

II. File Petition for Modification

MSHA estimates that approximately 95 percent of all petitions (or 44 petitions) are submitted by electronic means, and approximately 5 percent (or 2 petitions) are submitted by mail. MSHA assumes that there is no filing cost if submitted electronically.

MSHA estimates the mailing costs for petitions for modification is \$8 for a certified mail from USPS.

Table 13-3. Estimated Annual Respondent or Recordkeeper Cost Burden, Mail in Petition for Modification

Cost Component	Number of Responses	Unit Cost	Cost to Recordkeepers
Mail in Petition	2	\$8.00	\$16.00
Total (Rounded)	2		\$16

Cost Burden Summary

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

The annual cost burden for third-party petition preparation is summarized in the Summary Totals table below.

Table 13-4. Estimated Annual Respondent or Recordkeeper Cost Burden, Summary Table

Cost Component	Number of Responses	Hours per Response	Total Burden (Hours)	Unit Cost	Total Burden Cost
I. Third-party Prepare Petitions	9	16	144	\$172.32	\$24,814.08
II. Mail in Petitions	2			\$8.00	\$16.00
Total (Rounded)					\$24,830

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.

Table 14-1. Federal Hourly Wage Rates

Occupation	Occupation Code	Mean Wage Rate	Benefit & Overhead Multiplier [a]	Loaded Hourly Wage Rate
		A	B	A x B
GS-11 Administrative Staff [b]	301, 341, 343	\$38.23	1.586	\$60.63
GS-12 Inspector [c]	1822	\$47.55	1.586	\$75.41
GS-13 Government Specialist [d]	1801, 1822	\$55.98	1.586	\$88.78
GS-14 DOL Staff Attorney [e]	905	\$69.24	1.586	\$109.81

Note: Hourly wage rates developed from Office of Personnel Management (OPM) September 2023 FedScope Employment Cube, <http://www.fedscope.opm.gov/>.

[a] Benefit and overhead multiplier = 1 + (MSHA personnel benefits, travel and transportation, and rental expenses / MSHA personnel compensation) = (1+ ((76,679+20+5,309+5,932+17,577+71) / 180,071) (FY 2024 budget submission, use FY2023 Revised Enacted Budget: <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V2-13.pdf>).

[b] Data search qualifiers are: Agency = DLMS, Occupation = 301, 341, and 343, Work Schedule = Full-Time, Salary Grade = GS-11, Measure = Average Salary. The hourly wage is the annual salary divided by 2,087. In order to include the cost of benefits and overhead, MSHA multiplies the average annual salary by a Federal benefit and overhead multiplier for MSHA of 1.586. Rate equals \$60.63 = (((\$79,779 / 2,087) x 1.586).

[c] Data search qualifiers are: Agency = DLMS, Occupation =1822 (Mine Safety and Health Inspection), Work Schedule = Full-Time, Salary Grade = GS-12, Measure = Average Salary. The hourly wage is the annual salary divided by 2,087. In order to include the cost of benefits and overhead, MSHA multiplies the average annual salary by a Federal benefit and overhead multiplier for MSHA of 1.586. Rate equals \$75.41 = (((\$92,228/ 2,087) x 1.586).

[d] Data search qualifiers are: Agency = DLMS, Occupation =1801, 1822, Work Schedule = Full-Time, Salary Grade = GS-13, Measure = Average Salary. The hourly wage is the annual salary divided by 2,087. In order to include the cost of benefits and overhead, MSHA multiplies the average annual salary by a Federal benefit and overhead multiplier for MSHA of 1.586. Rate equals \$88.78 = (((\$116,826/ 2,087) x 1.586).

[e] Data search qualifiers are: Agency = DLSL, Occupation =905 Work Schedule = Full-Time, Salary Grade = GS-14, Measure = Average Salary. The hourly wage is the annual salary divided by 2,087. In order to include the cost of benefits and overhead, MSHA multiplies the average annual salary by a Federal benefit and overhead multiplier for MSHA of 1.586. Rate equals \$109.81 = (((\$144,495/ 2,087) x 1.586).

I. Initial Review Petition for Modification

MSHA staff will conduct initial processing and preparation of a *Federal Register* notice announcing that a petition for modification has been filed by a mine operator. MSHA estimates that it will take an MSHA administrative staff person GS-11, earning \$60.63 per hour, three hours to conduct initial processing and preparation for each of the 46 petitions.

Table 14-2. Estimated Federal Hour and Cost Burden, Initial Review Petition for Modification

Activity (Occupation)	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Initial Review (GS-11 Administrative Staff)	46	3.00	138	\$60.63	\$8,366.94
Subtotal (Rounded)	46		138		\$8,367

II. Publish Public Notice of Petition for Modification

The Microsoft Word submission cost for publication of the notice of the petition in the *Federal Register* is \$151.00 per column. Petition-related notices average three petitions per column, and the cost per petition would be \$50.33 for each of the 46 petitions.

Table 14-3. Estimated Annual Respondent or Recordkeeper Cost Burden, Publish Public Notice of Petition for Modification

Cost Component	Number of Responses	Unit Cost	Total Burden Cost
Publish Notice of Petition	46	\$50.33	\$2,315.18
Total (Rounded)	46		\$2,315

III. Investigate Petition for Modification

MSHA conducts an investigation for each petition for modification and prepares an investigative report. MSHA estimates that it would take an inspector (GS-12), earning \$75.41 per hour, 40 hours to complete the investigation and report for each petition for modification.

Table 14-4. Estimated Annual Respondent Hour and Cost Burden, Investigate Petition for Modification

Activity (Occupation)	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Investigate Petition for Modification (GS-12 Inspector)	46	40.00	1,840.00	\$75.41	\$138,754.40
Subtotal (Rounded)	46		1,840		\$138,754

IV. Review Petition of Modification

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

MSHA assumes that half of the petitions for modifications (23 petitions) are complex and the other half are simple. MSHA estimates that it takes approximately 24 hours per petition to review the petition for modification and investigative report and prepare a proposed decision for a complex petition, and approximately 2.5 hours per petition for the remaining 23 simple petitions. This will be done by an MSHA government Specialist (GS-13), earning \$88.78 per hour.

Table 14-5. Estimated Annual Respondent Hour and Cost Burden, Review Petition for Modification and Decision, GS-13 Government Specialist

Activity (Occupation)	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Review Petition, Complex (GS-13 Government Specialist)	23	24.00	552.00	\$88.78	\$49,006.56
Review Petition, Simple (GS-13 Government Specialist)	23	2.50	57.50	\$88.78	\$5,104.85
Subtotal (Rounded)	46		610		\$54,111

Additionally, MSHA estimates that a Department of Labor government staff attorney will conduct another review of the petition for modification and investigative report and review of MSHA’s proposed decision. MSHA estimates that it takes approximately 8 hours per petition for complex petitions and approximately 2.50 hours for simple petitions. This will be done by a Department of Labor government staff attorney (GS-14), earning \$109.81 per hour.

Table 14-6. Estimated Annual Respondent Hour and Cost Burden, Review Petition for Modification and Decision, GS-14 DOL Staff Attorney

Activity (Occupation)	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Review Petition, Complex (GS-14 DOL Staff Attorney)	23	8.00	184.00	\$109.81	\$20,205.04
Review Petition, Simple (GS-14 DOL Staff Attorney)	23	2.50	57.50	\$109.81	\$6,314.08
Subtotal (Rounded)	46		242		\$26,519

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

The annual DOL review hour and cost burden is summarized in the Summary Totals table below.

Table 14-7. Estimated Annual Respondent Hour and Cost Burden, Summary Table Review Petition of Modification

Activity (Occupation)	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
Review Petition (GS-13 Government Specialist)	46		609.50	\$88.78	\$54,111.41
Review Petition (GS-14 DOL Staff Attorney)	46		241.50	\$109.81	\$26,519.12
Subtotal (Rounded)	46		851		\$80,631

V. Publish Final Actions Granting Petition for Modification

Of the 46 petitions for modification that are received, MSHA estimates that approximately 75 percent (or 35 petitions) are approved. Each approved petition will also need to be published in the *Federal Register* at a cost of \$50.33 per petition.

Table 14-8. Estimated Annual Respondent or Recordkeeper Cost Burden, Publish Final Action Granting Petition for Modification

Cost Component	Number of Responses	Unit Cost	Total Burden Cost
Publish Approved Petition	35	\$50.33	\$1,761.55
Total (Rounded)	35		\$1,762

Federal Burden Summary

The annual respondent hour and cost burden is summarized in the Summary Totals table below.

Table 14-9. Estimated Annual Respondent Hour and Cost Burden, Summary Table

Activity	Number of Responses	Burden per Response (Hours)	Total Burden (Hours)	Unit Cost	Total Burden Cost
I. Initial Review Petition	46	3.00	138.00	\$60.63	\$8,366.94
II. Publish Public Notices of Petition	46			\$50.33	\$2,315.18
III. Investigate Petition	46		1,840		\$138,754.40
IV. Review Petition	46		851		\$80,630.53
V. Publish Final Actions Granting Petition	35			\$50.33	\$1,761.55
Total	46		2,829		\$231,829

Note: The sum of the number of responses might not add up to the total reported numbers in the table due to multiple steps in each petition.

15. Explain the reasons for any program changes or adjustments on the burden worksheet.

Number of Respondents: The estimated number of respondents decreased from 56 to 46 due to decline in the number of petitions.

Number of Responses: The estimated number of responses increased from 56 to 164 due to due to a change in methodology.

Annual Time Burden: The estimated annual time burden decreased from 2,240 to 1,501 hours due to the decreases in respondents/responses.

Annual Burden Costs: The estimated annual burden costs decreased from \$137,914 to \$117,014 due to the decrease in the number of respondents/responses.

Annual Other Burden Costs: The estimated annual other burden cost decreased from \$28,545 to \$24,830 due to a decline in the number respondents/responses.

Federal Hours: The estimated annual federal hours decreased from 3,488 to 2,829 hours due to the decrease in respondents/responses.

Federal Costs: The estimated annual federal costs decreased from \$289,945 to \$231,829 due to the decrease in respondents/responses.

Table 15-1. Summary of Changes

	Previous ICR	Currently Approved ICR	Difference
Number of Respondents	56	46	-10
Number of Responses	56	164	108
Annual Time Burden	2,240	1,501	-739
Annual Burden Costs	\$137,914	\$117,484	-\$20,430
Annual Other Burden Costs	\$28,545	\$24,830	-\$3,715
Federal Hours	3,488	2,829	-659
Federal Costs	\$289,945	\$231,829	-\$58,116

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.

Petitions for Modification of Mandatory Safety Standards

OMB Control Number: 1219-0065

OMB Expiration Date: 5/31/2025

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 and there is no form associated 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 certification exceptions identified with this information collection.

B. Collections of information employing statistical methods

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