

NOTE TO REVIEWER

After review and reevaluation, MSHA decided to eliminate the proposed alternative Form 5000-23T that would have been used for recording task training. The use of this form would have had no effect on the recordkeeping burden of mine operators; was not in demand by the industry; and would have only increased MSHA's costs for printing, storing and distributing the forms. Since operators will continue to use the original Form 5000-23 to record task training, the recordkeeping burden that was previously associated with the 5000-23T will now be incorporated back into the burden estimate for the regular 5000-23.

The MSHA Form 5000-23 is available on the Internet for public access. The form may be downloaded or printed from the MSHA worldwide web site at <http://www.msha.gov>; or it may be completed on-screen electronically and printed as a finished training certificate.

The burden hours and costs associated with MSHA Form 5000-23 include the recent rule amendments to 30 CFR Part 48 that were published in the Federal Register (FR 53759; Oct. 6, 1998; Experienced Miner and Supervisor Training). However, since the promulgation of the new Part 46 rule in September 30, 1999, these burden hours and costs now apply only to the mines and miners covered by 30 CFR Part 48. Part 48 does not cover miners engaged in shell dredging, or employed at sand, gravel, surface stone, surface clay, colloidal phosphate, surface limestone mines, or at marble, granite, sandstone, slate, shale, traprock, kaolin, cement, feldspar, and lime operations.

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**SUPPORTING STATEMENT**

Standards 48.9 and 48.29, Certificate of Training, MSHA Form 5000-23 (pertains to coal and metal and some nonmetal mines)

**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.**

The Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801, et. seq. (Mine Act), recognizes that the role of education and training in the improvement of miner health and safety is an important element of federal efforts to make the nation's mines safer places in which to work. Section 115(a) of the Mine Act requires that each mine operator have a program approved by the Secretary for training miners in the health and safety aspects of mining. Upon completion of each training program, the mine operator certifies on a form approved by the Secretary that the miner has received the specified training in each subject area of the approved health and safety training plan. The certificates are to be maintained by the operator for a period of 2 years and be available for inspection at the mine site. In addition, the miner is entitled to a copy of the certificate upon completion of the training and when he leaves the operator's employ. Title 30, C.F.R. Part 48 implements Section 115 of the Mine Act by setting forth the requirements for obtaining approval of training programs and specifying the kinds of training which must be provided to the miners.

**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 regulations under Part 48 define five categories of training: new miner, experienced miner, annual refresher, task, and hazard training. Within these categories, specific subject area courses are required. The Form 5000-23 provides the mine operator with a recordkeeping form, the miner with a certificate of training, and MSHA with a monitoring tool for determining compliance requirements. The form in its present format provides the

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industry with one form that complies with all the requirements of the training regulations.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

No improved information technology has been identified that would reduce the burden, however, in order to comply with the Government Paperwork Elimination Act, the MSHA Form 5000-23 is provided by MSHA to the mine operators. The form is also available for downloading on the MSHA web site at <http://www.msha.gov>. In response to previous comments and suggestions, this computerized version of the form permits mine operators to enter information on the form electronically, print the completed form, and store the training certificates in an electronic format.

**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.**

Due to the individualized nature of the training that each miner receives, there is no similar or duplicate information that could be used.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The provisions of the Mine Act and MSHA regulations and standards apply to all operations because accidents, injuries, and illnesses can occur at any mine regardless of size. Congress intended that the law be enforced at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. However, Congress did recognize that small operations may face problems in complying with some Mine Act provisions. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Act. This information collection does not have a significant impact on a substantial number of small entities.

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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.

MSHA Form 5000-23, Certificate of Training, was developed for use by the mine operator to record and certify that the miner has received the specified training. Upon completion of each training program, the form is completed by the instructor. All training completed within the miner's 12-month training cycle may be recorded on one form. A copy of the form is given to the miner at the end of the 12-month cycle. A copy of the form is given to the miner at the completion of a single training program upon his or her request.

MSHA inspectors will sometimes ask that mine operators produce training certificates during an inspection in order to ensure that all miners have received the proper training. Without adequate training, miners may sustain serious or even fatal injuries because they lack the knowledge to properly and safely perform various tasks and activities.

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

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● 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.

While mine operators are not specifically required to keep records for more than two years or 60 days after termination of an employee (30 C.F.R. 48.29), the mine operators must be able to provide current training records for all miners during the time the mine is in operation. This collection of information is otherwise consistent with the guidelines in 5 C.F.R. § 1320.5.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

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

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

MSHA has decided not to 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

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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 in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

The standards pertain to approximately 3,730 mining operations which employ an estimated 131,300 miners (excluding persons working in office environments who are not exposed to mining related hazards).

MSHA requires mine operators to report production, number of employees by work unit, and hours worked on a quarterly basis. For calendar year 2000, the Coal Industry reported approximately 2,930 coal mining operations employing 69,300 miners. The applicable Metal and Nonmetal Industries (under Part 48) reported approximately 800 mining operations employing 62,000 miners.

Although all of the training completed by a miner within a 1-year period may be recorded on one form, training specialists estimate that for each miner two forms will probably be completed annually. The simple checkoff method for completing the form reduces the preparation burden to about 5 minutes (0.08 hour) per

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form. The burden is calculated based on the number of mining operations (3,730), the number of miners (131,300), forty percent of miners being trained by company personnel (52,520), the average number of miners per mine (35.2), the number of forms per miner (2), and the estimated time to complete the form (0.08 hour).

MSHA estimates that the Coal supervisory/technical staff rate for the year 2000 is \$54.53/hour, and for the Metal and Nonmetal supervisory/technical staff is \$46.09/hour. (Sources: U.S. Coal Mine Salaries, Wages, and Benefits - 2000 Survey Results and U.S. Metal & Industrial Minerals Mine Salaries, Wages and Benefits - 2000 Survey Results, by Western Mine Engineer, Inc.)

The weighted average for the combined coal and metal and nonmetal mining industry is:

$$\begin{aligned} & \$54.53 (69,300/131,300) + \$46.09 (62,000/131,300) = \\ & \$28.78 + \$21.76 = \\ & \$50.54/hr. \end{aligned}$$

Furthermore, MSHA estimates that 40% (52,520) of the miners training is conducted by an employee of the mine operator with an average salary of \$50.54 per hour. Approximately 40% of the training is conducted by state grant trainers at no cost and no burden to the mine operators, and approximately 20% is conducted by independent training contractors hired by the mine operator. Burden hour estimates for state grant trainers are not included in the burden hour calculations below since there is no burden imposed on the mine operator. The actual cost of the independent training contractor's time is detailed under Item 13.

Training Form Burden:

14.1 miners (131,300 miners x .40/3,730 mines) x 2 forms for each miner each year x 0.08 hours per form = 2.25 hours per mine.

$$3,730 \text{ mines} \times 2.25 \text{ hours} = 8,393 \text{ hours.}$$

Salary/Benefits Costs:

$$8,393 \text{ hours} \times \$50.54/\text{hour} = \$424,157$$

MSHA Form 5000-23 is assembled in pads with 50 sets of forms per pad and four forms per set. The pads have a wrap-around cover.

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The burden estimate statement required by 5 C.F.R. Section 1320.21 appears on the cover.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of 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 estimates no burden hours or cost for course development or the actual training. MSHA provides many publications, training modules and video tapes, as well as accident reports and compilations of accident statistics, routinely used in training courses. These resources are available to the mining industry and are frequently used by industry trainers whether employed by the mine operator directly or as contractors.

MSHA estimates that independent contract trainers will have average class sizes of 15 miners and will charge an estimated \$50.00 per hour of instruction. Such contract trainers may

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develop their own training materials, outlines and handouts and no separate charges for course development or materials would be assessed.

Approximately 20% of the training is conducted by independent contractors hired by mine operators. It takes approximately 5 minutes (0.08 hours) to fill out the form at 1 form per miner.

Salary/Benefits Costs:

$\$50.00/\text{hour} \times .08 \text{ hours/form} = \$4.00 \text{ per form}$

$35.2 \text{ miners/mine} \times 3,730 \text{ mines} \times 0.2 \text{ (20\%)} \times \$4.00/\text{form} \times 2 \text{ forms per miner per year} = \$210,074$

MSHA believes that the cost of maintaining the forms at the mine is minimal and therefore has not been included in this package.

**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.**

During 1999 and 2000, MSHA ordered an average of 19,550 pads (50 sets per pad) of the form each year at an average print cost of \$37,282.

MSHA inspection personnel routinely check that miners have received the required training by periodic examination of the 5000-23 forms and interviews of the miners. However, such examinations of the mine operator's records is done as a part of a normal, complete mine inspection. Because the review of training records is just one aspect of the inspections required under Section 103(a) of the Mine Act, MSHA believes that this burden is minimal and has assigned no federal cost burden for this specific information collection.

**15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

The **decrease** in burden hours from 36,493 to 8,393 is due to a significant decrease in the total number of responses. This reduced number is partly from (1) a decrease in the number of mining operations, and mostly from (2) the removal of burden

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hours previously associated with the mines now covered by the Part 46 rule. These standards and their burdens were submitted in a separate paperwork package (1219-0131). The elimination of the Form 5000-23T does not effect the burden.

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

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

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

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

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

There are no exceptions to the certification statement.

#### **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection of information does not employ statistical methods.

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