

## SUPPORTING STATEMENT

30 CFR 75.100, 75.155, 77.100 and 77.105: Qualification and Certification Program  
(Pertains to coal mine operators in States without certification programs.)

### 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.**

Title 30 CFR, Sections 75.100 and 77.100 pertain to the certification of certain persons to perform specific examinations and tests; and Title 30 CFR, Sections 75.155 and 77.105 pertain to the qualification of electric- and steam-hoisting engineers.

These regulations recognize State certification and qualification programs. However, where state programs are not available, the Secretary may certify and qualify persons for as long as they continue to satisfy the requirements needed to obtain the certification or qualification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for Secretarial qualification or certification are submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. Former form 5000 - 4 & 7 provided the coal mining industry with a standardized reporting format that expedited the certification and qualification process while ensuring compliance with the regulations. The information provided on the form enabled the Secretary of Labor's Delegate, the MSHA Qualification and Certification Unit to determine if the applicants satisfied the requirements to obtain the certification or qualification sought. Persons must meet certain minimum experience requirements depending on the type of certification or qualification.

(PLEASE NOTE: MSHA is presently in the process of streamlining its Forms. Forms 5000-4 and 5000-7 were combined into Form 5000-41 for use by coal mine operators. MSHA is requesting approval of this form.)

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**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.**

Form 5000-41 allows mining operators to report to MSHA the names of persons who have satisfactorily completed required mine foreman, and hoisting training. MSHA uses the form information to issue certification/qualification cards to those persons who are certified/qualified.

In States where certification programs are not available, mine operators would submit the applications to MSHA's Qualification and Certification Unit for qualification or certification. The Qualification and Certification Unit then mails the applicant a certificate. This certification satisfies the law where State certification programs are not available.

**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.**

Currently no new information technology has been identified that would reduce the burden. However, to better serve the mining community, and to reduce the paperwork burdens, MSHA provides for and encourages mine operators to download the MSHA Forms electronically. The forms are accessible from the MSHA Home Page for downloading in Portable Document Format (PDF):

[www.msha.gov](http://www.msha.gov)  
Forms and On-Line Filings

For fiscal year 2003, MSHA is in the processes of making 10 forms available electronically of which the 5000-41 is included. MSHA has established the capability to allow mine operators to fax (toll free 1-888-231-5515) completed 5000-41 forms in lieu of mailing them. The electronic filing capability is projected for completion during FY 2003.

**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.**

Standards apply in those instances where the State in which such persons are employed have no certification or qualification program or where the State program does not meet the minimum Federal standards. No duplicate or similar information exists.

**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 Federal Mine Safety and Health Act of 1977 (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 regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Act. S. Rep. 181, 95th Cong., 1st Sess. 28 (1977). However, Congress did recognize that small operations could face problems in complying with some of the provisions of the Mine Act. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses in obtaining any information under the Act. Accordingly, MSHA takes this into consideration when developing regulatory requirements, and when appropriate and consistent with ensuring the health and safety of this nation's miners, different requirements for small and large mines exist. MSHA has determined that this information collection does not have a significant impact on a substantial number of small businesses or other small entities. This collection of information is otherwise consistent with the guidelines in 5 CFR 1320.5.

**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.**

Less frequent information collection would result in a shortage of persons qualified and certified to perform important safety and health functions at mines. This would not be consistent with the purposes of the Mine Act.

**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;**

This information collection does not require respondents to report information to MSHA more often than quarterly. Mine operators submit responses to MSHA only when necessary to obtain certification or qualification for miners.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

NA

- **requiring respondents to submit more than an original and two copies of any document;**

This information collection requires respondents to submit only the original of MSHA Form 5000-41 to the Agency. The information collection does not require the maintenance of records. However, 30 CFR 75.159 and 77.106 require mine operators to maintain lists of all certified and qualified persons. This recordkeeping requirement has been approved by OMB under control number 1219-0127 (expiration date 04/31/05).

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

NA

- **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;**

NA

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

NA

- **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**

The information collection includes Privacy Act material. MSHA's Computer safeguards are as described in the National Bureau of Standards Publication,

"Computer Security Guidelines for Implementing the Privacy Act of 1974," and in accordance with procedures developed by MSHA under GSA Circular E-34. Files are posted with the appropriate Privacy Act warning. During working hours, only authorized personnel have access to the files.

- **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.**

NA

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

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

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

MSHA has published a 60-day pre-clearance FEDERAL REGISTER notice on (February 3, 2003, (68 FR, No. 22, pgs. 5308 - 5309)), soliciting comments regarding the extension of this information collection. The comment period closes April 4, 2003.

**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.**

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These records are covered the Privacy Act. Computer safeguards are as described in the National Bureau of Standards Publication, "Computer Security Guidelines for Implementing the Privacy Act of 1974," and in accordance with procedures developed by MSHA under GSA Circular E-34. Files are posted with the appropriate Privacy Act warning. During working hours, only authorized personnel have access to the files.

**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 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 13.**

**MSHA Health Activity Certification Old Form 5000-4**

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In fiscal year 2002, MSHA received 627 applications for Certification under 30 CFR 75.100(c)(1) and 77.100(b)(2), covering 1,440 miners.

MSHA personnel estimate that it takes approximately 5 minutes to complete the general portions of the MSHA Form 5000-4 and to mail the form to MSHA. MSHA personnel further estimate that it takes an additional 5 minutes to gather and complete the specific information on the form for each miner for whom certification is sought. Accordingly, the hour burden is calculated as follows:

$$\begin{array}{rcl}
 627 \text{ forms} \times 0.0833 \text{ hours per form} & = & 52 \text{ hours} \\
 1,440 \text{ miners} \times 0.0833 \text{ hours per miner} & = & \underline{120 \text{ hours}} \\
 \text{Total Hour Burden (MSHA Form 5000-4)} & = & 172 \text{ hours}
 \end{array}$$

MSHA personnel estimate that 5000-4 forms are completed and mailed by clerical personnel earning \$19.58 per hour. Accordingly, the cost of the hour burden is as follows:

$$172 \text{ hours} \times \$19.58 \text{ per hour} = \$3,368$$

#### **MSHA Hoisting Engineers Qualification Request Old Form 5000-7**

In fiscal year 2002, MSHA received 57 applications for Qualifications under 30 CFR 75.155(a)(2) and (b)(2) and 77.105(a)(2), covering 184 miners

MSHA personnel estimate that it takes approximately 5 minutes to complete the general portions of the MSHA Form 5000-7 and to mail the form to MSHA. MSHA personnel further estimate that it takes an additional 5 minutes to gather and complete the specific information on the form for each miner for whom qualification is sought. Accordingly, the hour burden is calculated as follows:

$$\begin{array}{rcl}
 57 \text{ forms} \times 0.0833 \text{ hours per form} & = & 5 \text{ hours} \\
 184 \text{ miners} \times 0.0833 \text{ hours per miner} & = & \underline{15 \text{ hours}} \\
 \text{Total Hour Burden (MSHA Form 5000-7)} & = & 20 \text{ hours}
 \end{array}$$

MSHA personnel estimate that 5000-7 forms are completed and mailed by clerical personnel earning approximately \$19.58 per hour. Accordingly, the cost of the hour burden is as follows:

$$20 \text{ hours} \times \$19.58 \text{ per hour} = \$392$$

**Total Hour Burden for MSHA Forms 5000-4  
and 5000-7 = 192 hours**

**Total Cost of the Hour Burden for MSHA  
Forms 5000-4 and 5000-7 = \$3,760**

(PLEASE NOTE: MSHA is presently in the process of streamlining its Forms. Forms 5000-4 and 5000-7 had been combined into one Form 5000-41 for future use by coal mine operators. MSHA is requesting approval for use of this form.)

- 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.**

In fiscal year 2002, MSHA received 627 MSHA Form 5000-4 forms and 57 MSHA Form 5000-7. The cost of mailing the forms to MSHA is \$0.37 each.

Accordingly, the annual postage cost is as follows:

$$684 \text{ forms} \times \$0.37 \text{ per form} = \$253$$

There is no capital and start-up cost component associated with this information collection for forms.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

MSHA Form 5000-4

MSHA staff specialists estimate that the computer time necessary to process the 5000-4 forms costs \$4,197 annually, and that the staff time necessary to process the forms costs \$2,474 annually, for a total annual cost to the Federal government of \$6,671.

MSHA Form 5000-7

MSHA staff specialists estimate that the computer time necessary to process the 5000-7 forms costs \$273 annually, and that the staff time necessary to process the forms costs \$190 annually, for a total annual cost to the Federal government of \$463.

Despite the allowance of electronic filing, the computer time cost should remain the same. Therefore, the combined annual cost for the new 5000-41 is \$7,134 (\$6,671 + \$463).

For fiscal year 2003, MSHA is in the processes of making 10 forms available electronically of which the 5000-41 is included. The total capital and start-up costs for this FY2003 are estimated at \$500,000. Because of the level of shared infrastructure and because the development complexity of some forms is greater than others, it is difficult to accurately estimate the 5000-41 share of the overall cost. However, because of the relative simplicity of the 5000-41, it is estimated that the share would be approximately 2.5% of the total giving a share cost of \$12,500. It is estimated that using the new MSHA 5000-43 forms that the cost for processing the forms will decrease by virtue of the elimination of one of the forms.

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

Respondents/Responses: There has been an increase of 73 Respondents/Responses (611 to 684). These numbers reflect the number of forms that were submitted to MSHA, i.e. there were 73 more forms submitted since the 2000 submission.

Hours: There has been a 21 hour decrease (213 to 192). In completing the forms there are hours associated with completing the general portions of the forms along with the information specific to each miner. Comparing the number of forms/miners used to calculate burden hours from the currently approved collection to this collection there has been a decrease of 253; therefore the burden hours decreased accordingly.

Costs: There has been no change in costs.

**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.**

There are no plans 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 certification exceptions identified with this information collection.

## **B. Collection of Information Employing Statistical Methods**

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the Form OMB 83-I is checked "Yes," the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection methods to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

The collection of this information does not employ statistical methods.

2. Describe the procedures for the collection of information including:

- Statistical methodology for stratification and sample selection,
- Estimation procedure,
- Degree of accuracy needed for the purpose described in the justification,
- Unusual problems requiring specialized sampling procedures, and
- Any use of periodic (less frequently than annual) data collection cycles to reduce burden.

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to

**identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.**

**5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.**

Proposed Burden Statement  
Health Activity Certification or Hoisting Engineers  
Qualification Request Form  
**MSHA Form 5000-41**

30 CFR 75.100, 30 CFR 77.100 (Health and Safety Certification) establish the procedures under which miners are certified to make certain tests and examinations which are required by MSHA regulations to be performed by certified persons. For mines located in states that do not have provisions for certifying miners, 30 CFR 75.100 (c)(1) and 30 CFR 77.100 (b)(2) required mine operators to make application to MSHA to obtain certification for miners who meet certain minimum experience requirements.

30 CFR 75.155 and 30 CFR 77.105 (Hoisting Engineers Qualification) establish the procedures under which miners are qualified to operate hoists. For mines location in states that do not have provisions for qualifying hoist operators, 30 CFR 75.155 require mine operators to make application to MSHA to obtain qualification for miners who meet certain minimum experience requirements.

MSHA form 5000-41 provides coal mine operators with a standard reporting format which expedites the certification and qualification process while ensuring compliance with regulations. The information provided on the form enables MSHA to determine if miners satisfy the requirements to obtain the certification/qualification sought.

This collection of information is covered by a Privacy Act notice published in the Federal Register. Computer safeguards are as described in the National Bureau of Standards Publication, "Computer Security Guidelines for Implementing the Privacy Act of 1974," and in accordance with procedures developed by MSHA under GSA Circular E-34.

Public reporting burden for this collection of information is estimated to average 17 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Records Management Branch, Mine Safety and Health Administration, 1100 Wilson Boulevard, Arlington, VA 22209-3939.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number.

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