

## SUPPORTING STATEMENT

30 CFR Sections 57.5060, 57.5065, 57.5066, 57.5067, 57.5070, 57.5071, and 57.5075 - Health Standards for Diesel Particulates Matter (Underground Metal and 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.**

Under Section 101(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), and Title 5, United States Code, Section 553, the Secretary of Labor shall develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Diesel particulate matter (DPM) is a probable carcinogen that consists of tiny particles present in diesel engine exhaust that can readily penetrate into the deepest recesses of the lungs. Despite ventilation, the confined underground mine work environment may contribute to significant concentrations of particles produced by equipment used in the mine. Underground miners are exposed to higher concentrations of DPM than any other occupational group. As a result, they face a significantly greater risk than other workers of developing such diseases as lung cancer, heart failure, serious allergic responses and other cardiopulmonary problems.

The DPM rule establishes a permissible exposure limit (PEL) to total carbon, which is a surrogate for measuring a miner's exposure to DPM. The rule includes a number of other requirements for the protection of miners' health. The DPM existing rule contains information collection requirements for underground MNM mine operators under §§ 57.5060, 57.5065, 57.5066, 57.5067, 57.5070, 57.5071, and 57.5075(a) and (b)(3).

#### **30 C.F.R. Section 57.5060(c)**

Under this section, if a mine has technological or economic constraints in meeting the final DPM PEL contained in § 57.5060(b)(3) that became effective on May 20, 2008, the mine operator may file an application with the District Manager for a special extension of time in which to comply with the PEL. The application criteria are specified in the standard and require the mine operator to certify on the application that the operator has posted a copy of the application at the mine site for at least 30 days before the date of the application, and has provided a copy of the application to the representative of miners. In addition, the mine operator must include the following information:

1. Documentation supporting that controls are technologically or economically infeasible at this time to reduce the miner's exposure to the final DPM limit; 2. The

most recent DPM monitoring results; and 3. The actions the operator will take during the extension to minimize exposure of miners to DPM. Upon approval, the mine operator must comply with the terms of any approved application, post a copy of the approved application at the mine site for the duration of the special extension period of one year, and provide a copy of the approved application to the authorized representative of the miners.

### **30 C.F.R. Section 57.5060(d)(3) through (d)(8)**

Under these provisions, mine operators must provide, at no cost to the miner, a confidential medical evaluation by a physician or other licensed health care professional (PLHCP) to determine the miner's ability to use a respirator before the miner is fit tested or required to work in an area of the mine where respiratory protection must be used. The miner must be reevaluated when the mine operator has reason to believe that conditions have changed which could adversely affect the miner's ability to wear the respirator. The DPM rule provides miners the right to discuss their medical evaluations with the PLHCP before the PLHCP submits a copy of the written determination to the mine operator regarding the miner's ability to wear a respirator. The miner may submit to the PLHCP additional evidence of the miner's medical condition.

The mine operator must have a written record of the most recent medical evaluation to confirm that the miner was evaluated. In addition, the rule includes requirements for transferring a miner to an existing job in an area of the mine where respiratory protection is not required if a PLHCP has determined that the miner's medical condition precludes the miner from safely wearing any required respirator, including a powered air-purifying respirator (PAPR).

Section 57.5060(d)(3) requires that the mine operator provide a confidential medical evaluation by a PLHCP to determine the miner's ability to use a respirator before the miner is required to be fit tested or to use a respirator at the mine. The mine operator must provide the medical evaluation to the miner and pay the cost of each of the miner's medical evaluations. Mine operators must make certain that the PLHCP administers the testing in a manner that protects the confidentiality of the miner being evaluated.

If the PLHCP determines that the miner is able to wear a negative-pressure respirator, the mine operator must provide it and require the miner to wear it. When respiratory protection is required, the mine operator must establish a respiratory protection program that complies with MSHA's existing respiratory protection standards for control of airborne contaminants at metal and nonmetal mines at § 57.5005(a),(b) and with requirements in the DPM standard under paragraphs (d)(1) and (d)(2) addressing appropriate DPM filters for air-purifying respirators. On the other hand, if the PLHCP concludes that the miner is unable to wear a negative-pressure respirator, the mine

operator must make certain that the PLHCP also determines the miner's ability to wear a PAPR. If the PLHCP finds that the miner is able to wear a PAPR, the mine operator must provide the PAPR and require the miner to wear it.

A miner is not to be assigned to tasks in the mine that require use of a respirator unless a PLHCP makes a written determination that the miner is physically able to perform the work to which the miner is assigned while using the respirator.

Section 57.5060(d)(4) requires mine operators to provide the miner with an opportunity to discuss their evaluation results with the PLHCP before the PLHCP submits the written determination to the mine operator. If the miner disagrees with the determination of the PLHCP, the miner has up to 30 days to submit to the PLHCP additional evidence of his or her medical condition. Depending upon the miner's medical history, it may be critical for the miner to discuss any discrepancies or errors in a PLHCP's determination. The miner, however, may at any time provide additional medical information to the mine operator if the miner believes that it may impact the miner's ability to wear a respirator.

Section 57.5060(d)(5) requires the mine operator to obtain a written determination from the PLHCP regarding the miner's ability to wear a respirator. The mine operator must make certain that the PLHCP provides a copy of the determination to the miner.

Section 57.5060(d)(6) requires the mine operator to reevaluate the miner when the operator has reason to believe that conditions have changed. Such conditions include a reassignment of the miner to a new task requiring a significant increase in physical exertion, or the miner is assigned to work at a lower level of a deep mine that is hotter and imposes greater physiological stress.

Section 57.5060(d)(7) requires upon written notification that the PLHCP has determined that the miner is unable to wear a respirator (including a PAPR), the miner must be transferred within 30 days of the PLHCP's determination to work in an existing position in an area of the same mine where respiratory protection is not required. As a result, the miner must continue to receive compensation at no less than the regular rate of pay in the classification held by that miner immediately prior to the transfer. However, wage increases of the transferred miner must be based on the new work classification.

Under § 57.5060(d)(8), the mine operator must maintain a record of the identity of the PLHCP and the most recent written determination of each miner's ability to wear a respirator for the duration of the miner's employment plus six months thereafter.

### **30 C.F.R. Section 57.5065(a)**

This section requires mine operators to retain for one year purchase records showing compliance with the requirement that the sulfur content of diesel fuel used to power equipment underground is not exceeding 0.05 percent.

**30 C.F.R. Section 57.5066(b)**

This section requires that operators tag diesel-powered equipment at any time the miner notes evidence that the equipment may require maintenance to comply with the maintenance requirements. Each time there is an emission-related problem on a diesel-powered piece of equipment and the equipment is tagged, the mine operator must establish and retain a log including the date of the equipment examination, name of person who examined the equipment, and any action taken as a result of the examination. The mine operator must retain the log for a period of one year.

**30 C.F.R. Section 57.5066(c)**

Under this section, the mine operator is required to take various steps to assure that the miner has taken the training concerning the maintenance of diesel powered equipment. The mine operator must retain a record of the training provided the miner as evidence of the miner's competency for one year after the date of any maintenance, and the mine operator must present such record to the Secretary's representative.

**30 C.F.R. Section 57.5070**

Under this section, mine operators must train all miners who can reasonably be expected to be exposed to diesel emissions on that property must receive annual health training in accordance with § 57.5070(a)(1) through (a)(4). The mine operator must retain a record of training for one year after completion.

**30 C.F.R. Section 57.5071**

This section requires that mine operators monitor a miner's full-shift personal exposure as often as necessary to effectively determine, under mining conditions, whether the miner's exposure exceeds the PEL. Additionally, mine operators must give prior notice to miners and their representatives of the dates and times the sampling will take place. (MSHA assumes that 45 percent of the time notification will occur orally, 35 percent of the time notification will be written, and 20 percent of the time notification will be posted.)

This section also requires that if a miner's exposure exceeds the PEL, mine operators must promptly post a notice on the mine bulletin board of corrective action being taken. Mine operators must also post on the mine bulletin board within 15 days of receipt, and remain on the board for 30 days DPM sampling results, including sampling results of the Secretary. The mine operator must provide a copy to the miners' representative at the mine. The mine operator must retain for five years from the date of sampling the results of any monitoring samples collected, as well as information about the sampling method used.

**30 C.F.R. Section 57.5075**

The recordkeeping requirements of the DPM standards contained in §§ 57.5060 through 57.5071 are listed in a table entitled "Table 57.5075(a)--Diesel Particulate Matter Recordkeeping Requirements." The table lists the records the operator must maintain pursuant to §§ 57.5060 through 57.5071, and the retention period for these records.

The Table in § 57.5075(a) includes a conforming change by adding record of the identity of the PLHCP and the most recent written determination of each miner's ability to wear a respirator for the duration of the miner's employment plus six months;

**30 C.F.R. Section 57.5075(b)**

This section requires that operators keep for one year purchase records showing compliance with the requirement that the sulfur content of diesel fuel used to power equipment underground is not exceeding 0.05 percent.

**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.**

Underground mines are confined spaces which, despite ventilation requirements, tend to accumulate significant concentrations of particles and gases – both those produced by the mine itself (e.g., methane gas and respirable dust) and those produced by equipment used in the mine (e.g., diesel particulate). It is widely recognized that respirable particles can create adverse health effects. This information collection is provided to the MSHA inspector and used by the agency to monitor the mine operator's compliance with the health standard.

**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 specific information technology has been identified that would reduce the burden.

The mine operator must have a written record of the most recent medical evaluation to confirm that the miner was evaluated. Additionally, the mine operator must make certain that the PLHCP provides a copy of the determination to the miner. Though the rule does not specify a timeframe in which the mine operator must have the PLHCP provide a copy to the miner of his or her medical determination, we intend for the mine

operator to exercise diligence in getting this important information to the miner by whatever method they choose. It has been MSHA's longstanding practice to allow operators to keep records in hard copy as well as electronically as long as the records are accessible.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

No similar or duplicate 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.**

This information collection does not have a significant impact on a substantial number of small entities. However, MSHA has made available various links on our web-site specific to Diesel matters. On our homepage [www.msha.gov](http://www.msha.gov) there are sites under Compliance Assistance and under Special Initiatives for information on Diesel.

**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 would not be able to verify whether mine operators were complying with major portions of the DPM rule. Such action is likely to result in exposing, consequently, underground metal and nonmetal miners may be exposed to high concentrations of DPM.

**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.**

Although mine operators are required to post sampling results on the bulletin board and supply a copy to the miner's representative, mine operators are also required to retain this information for five years. This collection of information is consistent with the guidelines in 5 C.F.R. § 1320.5.

Under § 57.5060(d)(8), the mine operator must maintain a record of the identity of the PLHCP and the most recent written determination of each miner's ability to wear a respirator for the duration of the miner's employment plus six months thereafter.

**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.**

MSHA published a 60-day preclearance Federal Register notice on March 20, 2009, (Volume 74, Number 53, Pages 11973-11974, soliciting public comments regarding the extension of this information collection. No comments were received.

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

MSHA does not provide payments or gifts to respondents.

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

Mine operators must make certain that the PLHCP administers the medical evaluation of a miner's ability to use a respirator in a manner that protects the confidentiality of the miner being evaluated. This record must be maintained by the mine operator and reviewed by MSHA inspectors in the course of official agency business.

**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 such 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 purpose of this response to question 12 is to show the burden hours and related costs that are borne by affected: (1) underground MNM mine operators that use diesel-powered equipment, and (2) MNM miners.

**Details Concerning Paperwork Burden Hours and Related Costs** – Throughout this document the following metal and nonmetal underground hourly wage rates from 2007 are used:

\$62.40 a mine supervisor; \$26.78 for a miner;  
\$22.78 for a clerical worker and; \$28.57 for a mine mechanic.

### **§57.5060(c) Special Extensions**

Under § 57.5060(c), a mine operator needing additional time to comply with the final DPM PEL (160<sub>TC</sub> µg/m<sup>3</sup>, effective May 20, 2008) due to technological or economic constraints, is allowed to file with the District Manager an application for a special extension of time in which to comply with the final DPM PEL. The provision does not restrict the number of times the mine operator may apply for a special extension, provided each extension is no longer than one year.

This paperwork requirement applies to mine operators requesting an application for a special extension to the final limit on a yearly basis. Based on previous applications, we estimate that there will be 4 applications made from mines that employ 20 to 500 workers. For these mines, it would take a mine supervisor making \$62.40 an hour, 16 hours to prepare an application for a special extension, and a clerical worker, making \$22.78 an hour, 0.33 hours (20 minutes) to photocopy and distribute the extension to the miners' representative. Tables 1 and 2 show the burden hours and burden costs associated with this section.

**Table 1: Annual Burden Hours and Costs Starting in 2006 for Supervisors to Prepare an Application for a Special Extension to Final Limit Under § 57.5060(c)**

Mine Size	# of Mines	Burden Hours per Mine	Total Annual Burden Hours	Suprv. Wage (per Hr.)	Annual Burden Cost
Large (20 - 500)	4	16	64	\$62.40	\$3,994

**Table 2: Annual Burden Hours and Costs for Clerical Worker to Prepare an Application for a Special Extension to Final Limit Under § 57.5060(c)**

Mine Size	# of Mines	Burden Hours per Mine	Total Annual Burden Hours	Clerical Wage (per Hr.)	Annual Burden Cost
Large (20 - 500)	4	0.33	1.3	\$22.78	\$30

**Section 57.5060(d) - Miner Respirator Training and Miner Respirator Fit Testing by Mine Supervisor (Annual Burden Hours and Costs)**

In instances where feasible engineering and administrative controls do not reduce the miner's exposure to the PEL under § 57.5060(b)(3), mine operators must supplement feasible controls with adequate respiratory protection for overexposed miners and enroll the miners in a respiratory protection program meeting the minimum requirements of existing §§ 57.5005(a) & (b) addressing air quality standards for metal and nonmetal mines, and paragraphs (d)(1) & (d)(2) of § 57.5060 of the DPM standard.

Every year, as a result of employment turnover, a supervisor will need to provide one training session to train miners to use respirators. The training session is estimated to take 45 minutes (0.75 hours), including time for the supervisor to note the training in his daily log or pass around a sign-up sheet to keep as proof of compliance. The affected mines that will need to provide the one-session training will be: 66 mines employing fewer than 20 workers; 103 mines employing 20 to 500 workers, and 4 mines employing more than 500 workers. Table 3 shows annual burden hours and costs concerning the supervisor's respirator training.

**Table 3: Section 57.5060(d) - Miner Respirator Training by Mine Supervisors (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines	Training & Record Keeping Hrs.	Annual Burden Hours	Supvr. Wage (per hr.)	Annual Burden Cost
Small (<20)	66	0.75	50	\$62.40	\$3,120
Large (20 - 500)	103	0.75	77	\$62.40	\$4,805
Large (>500)	4	0.75	3	\$62.40	\$187
Total	173		130		\$8,112

**Section 57.5060(d) - Miner Respirator Fit Testing by Mine Supervisor Annual Burden Hours and Costs**

As a result of miner turnover every year, 1 miner will be tested in each mine in each size category. The number of mines and the time to perform fit testing is the same as in the first year. Table 4 shows annual burden hours and costs related to fit testing.

**Table 4: Section 57.5060(d) – Miner Respirator Fit Testing by Mine Supervisors (Annual Burden Hours and Costs)**

Mine Size (emp.)	# of Mines	# of Fit Tests per Mine	Time to Fit Test Hrs.	Annual Burden Hrs.	Superv. Wage (per Hr.)	Annual Burden Cost
Small <20	66	1	0.25	17	\$62.40	\$ 1,061
Large (20 – 500)	103	1	0.25	26	\$62.40	\$1,622
Large (>500)	4	1	0.25	1	\$62.40	\$62
Total	173			44		\$2,745

### **Section 57.5065 – Fueling Practices**

This section requires that operators keep purchase records for one year showing compliance with the requirement that the sulfur content of diesel fuel used to power equipment underground is not exceeding 0.05 percent. Since the operator is merely retaining a receipt for a fuel purchase, this burden is considered de minimus.

### **Section 57.5066(b) – Miner Tag Diesel Equipment and Record Tag (Annual Burden Hours and Costs)**

Each time there is an emission related problem on a diesel-powered machine the equipment must be tagged and a record made of the tag. Annually MSHA estimates that, on average, in mines with fewer than 20 workers, 40 percent of diesel powered equipment (632 machines) will be tagged. For larger mines, which generally have more extensive preventive maintenance programs, MSHA estimates that annually, on average, 20 percent of the diesel-powered equipment will be tagged. Therefore, the number of diesel machines to be tagged annually will be 950 machines in mines employing 20 to 500 workers, and 192 machines in mines employing more than 500 workers. It is estimated to take 2 minutes to tag the machine and another 2 minutes to record the tagging, for a total of 4 minutes (0.067 hours).

Table 5 shows annual burden hours to tag diesel powered equipment concerning emission related problems.

**Table 5: Section 57.5066(b) - Miners Tag Diesel Equipment and Record Tag (Annual Burden Hours and Costs)**

Mine Size	# of Tags	Tag and	Annual	Miner Wage	Annual
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(Emp.)		Record (Hrs.) <sup>a</sup>	Burden Hours	(per Hr.)	Burden Cost
Small (<20)	632	0.067	42	\$26.78	\$1,125
Large (20 - 500)	950	0.067	64	\$26.78	\$1,714
Large (>500)	192	0.067	13	\$26.78	\$348
Total	1774		119		\$3,187

<sup>a</sup> 0.067 = 0.0333 (to tag the equipment) + 0.0333 (to record the tag)

### **Section 57.5066(b) - Examine Tagged Diesel Equipment and Record Examination (Annual Burden Hours and Costs)**

For each diesel machine that has been tagged, an examination must be conducted concerning the tagged equipment and a record must be made of the examination. As noted earlier, the number of machines to be tagged annually will be: 632 machines in mines employing fewer than 20 workers, 950 machines in mines employing 20 to 500 workers, and 192 machines in mines employing more than 500 workers. For each piece of equipment tagged, MSHA estimates that it will take 10 minutes to examine the machine and another 2 minutes to record the examination, for a total of 12 minutes (0.2 hours). Table 6 shows annual burden hours and costs to examine tagged equipment and record the examination.

**Table 6: Section 57.5066(b) - Examine Tagged Diesel Equipment and Record Examination (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Tags	Examine & Record (Hrs.) <sup>a</sup>	Annual Burden Hours	Mechanic Wage (per Hr.)	Annual Burden Cost
Small (<20)	632	0.20	126	\$28.57	\$3,600
Large (20 - 500)	950	0.20	190	\$28.57	\$5,428
Large (>500)	192	0.20	38	\$28.57	\$1,086
Total	1774		354		\$10,114

<sup>a</sup> 0.20 = 0.167 (to examine the equipment) + 0.033 (to record the examination)

### **Section 57.5066(c) - Create and Maintain Records for Competent Maintenance Personnel (Annual Burden Hours and Costs)**

Appropriate repairs must be made to each diesel machine that has been tagged to bring the machine into compliance. The person performing these repairs must be competent to make them. Mine operators are required to maintain documentation verifying this competence for one year. MSHA estimates that 2 competent mechanics will repair diesel machinery at mines employing fewer than 20 workers, 10 mechanics will repair equipment at mines employing 20 to 500 workers, and 17 mechanics will repair

equipment at mines employing more than 500 workers. To create and maintain documentation verifying each mechanic's competence, MSHA estimates that it will take 30 minutes by a supervisor to review personnel records and 10 minutes to either record the examination or copy pertinent records, for a total of 40 minutes (0.67 hours). Table 7 shows annual burden hours and costs to create and maintain records for competent persons conducting repairs on diesel equipment.

**Table 7: Section 57.5066(c) - Create and Maintain Records for Competent Maintenance Personnel (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mechanics	Examine & Record (Hrs.) <sup>a</sup>	Annual Burden Hours	Mechanic Wage (per Hr.)	Annual Burden Cost
Small (<20)	2	0.67	1	\$28.57	\$29
Large (20 - 500)	10	0.67	7	\$28.57	\$200
Large (>500)	17	0.67	11	\$28.57	\$314
Total	29		19		\$543

**Section 57.5070 - Mine Supervisor Briefing Clerical Worker Regarding Health Training (Annual Burden Hours and Costs)**

All miners at a mine who can reasonably be expected to be exposed to diesel emission on mine property must receive health training in accordance with §§ 57.5070(a)(1) through (a)(4). For each mine, MSHA estimates that it will take a mine supervisor 5 minutes (0.083 hours) to brief a clerical worker concerning such training. The number of mines affected by this provision will be: 66 mines employing fewer than 20 workers, 103 mines employing 20 to 500 workers, and 4 mines employing more than 500 workers. Table 8 shows annual burden hours and costs for a supervisor to brief a clerical worker concerning miner health training.

**Table 8: Section 57.5070 - Mine Supervisors Brief Clerical Workers Regarding Health Training (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines	Briefing (Hrs.)	Annual Burden Hrs.	Superv. Wage (per Hr.)	Annual Burden Cost
Small (<20)	66	0.083	5	\$62.40	\$312
Large (20 - 500)	103	0.083	9	\$62.40	\$562
Large (>500)	4	0.083	1	\$62.40	\$62
Total	173		15		\$936

**Section 57.5070 - Clerical Worker Briefed by Mine Supervisor Regarding Health Training (Annual Burden Hours and Costs)**

As noted earlier, all miners at a mine who can reasonably be expected to be exposed to diesel emission on mine property must receive health training in accordance with §§ 57.5070(a)(1) through (a)(4). For each mine, MSHA estimates that it will take a clerical worker 5 minutes (0.083 hours) to be briefed by a supervisor concerning such training. The number of mines affected by this provision will be: 66 mines employing fewer than 20 workers, 103 mines employing 20 to 500 workers, and 4 mines employing more than 500 workers. Table 9 shows annual burden hours and costs for a clerical worker to be briefed by a supervisor concerning miner health training.

**Table 9: Section 57.5070 - Clerical Workers Briefed by Mine Supervisors Regarding Health Training (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines	Briefing (Hrs.)	Annual Burden Hrs.	Clerical Wage (per Hr.)	Annual Burden Cost
Small (<20)	66	0.083	5	\$22.78	\$114
Large (20 - 500)	103	0.083	9	\$22.78	\$205
Large (>500)	4	0.083	1	\$22.78	\$23
Total	173		15		\$342

**Section 57.5070 - Mine Supervisor Perform Health Training Sessions (Annual Burden Hours and Costs)**

Concerning miner health training, supervisors will conduct a 15 minute (0.25 hours) training session in mines employing fewer than 20 workers, and a 30 minute (0.5 hours) training session in mines employing 20 or more workers. The average number of training sessions to be held by a mine, in each mine size category, is determined based on the assumption that no more than 34 miners can be trained in any one session. It is assumed that 5% of mine employees are office workers who do not require training. For mines with less than 20 employees, the number of training sessions equals the number of mines. For mines with 20 or more employees, the number of training sessions is estimated as the number of mines times 17 plus the number of miners, all divided by 34 and rounded to the nearest whole number. Table 10 shows annual burden hours and costs for supervisors to give miner health training.

**Table 10: Section 57.5070 - Mine Supervisors Perform Health Training Sessions (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Training Sessions	Heath Training (Hrs.)	Annual Burden Hrs.	Suprv. Wage (per hr.)	Annual Burden Cost
Small (<20)	66	0.25	17	\$62.40	\$1,061

Large (20 – 500)	280	0.50	140	\$62.40	\$8,736
Large (>500)	91	0.50	46	\$62.40	\$2,870
Total	437		203		\$12,667

**Section 57.5070 - Clerical Worker Prepare Registration Sheet for Health Training Sessions (Annual Burden Hours and Costs)**

For each mine, the clerical worker will need 10 minutes (0.167 hours) to prepare the registration sheet for the health training attendees to sign at each training session. As noted earlier, the average number of training sessions to be held by a mine, in each mine size category, will be: 66 sessions in mines employing fewer than 20 workers, 280 sessions in mines employing 20 to 500 workers, and 91 sessions in mines employing more than 500 workers. Table 11 shows annual burden hours and costs for clerical workers to prepare registration sheets for health training sessions.

**Table 11: Section 57.5070: Clerical Workers Prepare Registration Sheet for Health Training Sessions (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Training Sessions	Prepare Registration Sheet (Hrs.)	Annual Burden Hrs.	Clerical Wage (per Hr.)	Annual Burden Cost
Small (<20)	66	0.167	11	\$22.78	\$251
Large (20 – 500)	280	0.167	47	\$22.78	\$1,071
Large (>500)	91	0.167	15	\$22.78	\$342
Total	437		73		\$1,663

**Section 57.5070 - Miners Sign Health Training Attendance Sheet (Annual Burden Hours and Costs)**

Each miner attending a health training session will be required to sign the registration sheet prepared by the clerical worker. Each signature will require 20 seconds of a miner's time. Table 12 represents the annual burden hours and costs, by mine size, resulting from this provision.

**Table 12: Section 57.5070 - Miners Sign Health Training Attendance Sheet (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Miners	Sign Name (Hrs.)	Annual Burden Hrs.	Mine Wage (per Hr.)	Annual Burden Cost
Small (<20)	580	0.006	3	\$26.78	\$80
Large (20 – 500)	8,500	0.006	51	\$26.78	\$1,366
Large (>500)	2,700	0.006	16	\$26.78	\$428

Total	11,780		70		\$1,874
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**Section 57.5071 - Mine Supervisor Oral Notification of Sampling (Annual Burden Hours and Costs)**

Section 57.5071 requires that mine operators monitor a miner's exposure to DPM as often as necessary to determine whether the miner's exposure exceeds the DPM PEL. We estimate mine operators will sample four times a year to determine a miners' exposures. Additionally, mine operators must provide prior notification to miners and their representatives of the dates and times the sampling will take place. MSHA assumes that 45 percent of mines will notify miners orally. This action will require 2 minutes of a mine supervisor's time. The annual burden hours and costs of oral notification appear in Table 13.

**Table 13: Section 57.5071 - Mine Supervisor Oral Notification of Sampling (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (45%)	# of Oral Notifications per Mine	Oral Notification (Hrs.)	Annual Burden Hrs.	Superv. Wage (per hr.)	Annual Burden Cost
Small (<20)	30	4	0.033	4	\$62.40	\$250
Large (20 to 500)	46	4	0.033	6	\$62.40	\$374
Large (>500)	2	4	0.033	1	\$62.40	\$62
Total	78			11		\$686

**Section 57.5071 - Written Notification of Sampling (Annual Burden Hours and Costs)**

MSHA assumes that another 35 percent of mines will notify miners and their representatives in writing. This will require five minutes of a mine supervisor's time to brief a clerical worker. These annual burden hours and costs appear in Table 14.

**Table 14: Section 57.5071 - Mine Supervisor Briefs Clerical Worker Regarding Written Notification of Sampling (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (35%)	Time to Brief at Each Mine (Hrs.)	Annual Burden Hrs.	Superv. Wage (per Hr.)	Annual Burden Cost
Small (<20)	23	0.083	2	\$62.40	\$125
Large (20 - 500)	37	0.083	3	\$62.40	\$187
Large	1	0.083	1	\$62.40	\$62



(>500)					
Total	61		6		\$374

The clerical worker will prepare, copy and deliver the written notice to each miner. This activity will take five minutes for each miner. The annual burden hours and costs associated with these actions are shown in Table 15.

**Table 15: Section 57.5071 - Clerical Worker Prepares Written Notification of Sampling (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (35%)	# of Written Notifications (35% Miners)	Written Notification (Hrs.)	Annual Burden Hrs.	Clerical Wage (per Hr.)	Annual Burden Cost
Small (<20)	23	203	0.083	17	\$22.78	\$387
Large(20 - 500)	37	2,975	0.083	247	\$22.78	\$5,627
Large (>500)	1	945	0.083	78	\$22.78	\$1,777
Total	61	4,123		342		\$7,791

**Section 57.5071 - Posted Notification of Sampling (Annual Burden Hours and Costs)**

MSHA assumes that the remaining 20 percent of mines will use a posted notice to inform miners of the dates and times that they intend to conduct sampling. This will require five minutes of a supervisor's time to brief a clerical worker. These annual burden hours and costs are exhibited in Table 16.

**Table 16: Section 57.5071 - Mine Supervisor Briefs Clerical Worker Regarding Posted Notification of Sampling (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (20%)	# of Posted Notifications per Mine	Briefing Clerical Worker (Hrs.)	Annual Burden Hrs.	Superv. Wage (per Hr.)	Annual Burden Cost
Small (<20)	13	4	0.083	4	\$62.40	\$250
Large (20 - 500)	21	4	0.083	7	\$62.40	\$437
Large (>500)	1	4	0.083	1	\$62.40	\$62
Total	35			12		\$749

It will take the clerical worker ten minutes to prepare and post the notice and five minutes to be briefed by the supervisor. Table 17 presents these annual burden hours and costs.

**Table 17: Section 57.5071 - Clerical Workers Receive Briefing and Prepare and Post Notification of Sampling (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (20%)	# of Posted Notifications per Mine	Briefing Clerical Worker (Hrs.) <sup>a</sup>	Annual Burden Hrs.	Clerical Wage (per Hr.)	Annual Burden Cost
Small (<20)	13	4	0.25	13	\$22.78	\$296
Large (20 - 500)	21	4	0.25	21	\$22.78	\$478
Large (>500)	1	4	0.25	1	\$22.78	\$22
Total	35			35		\$796

<sup>a</sup> 0.25 = 0.083 (to be briefed) + 0.167 (to prepare and post)

**Section 57.5071 Mine Supervisor Prepares and Posts Notice of Corrective Action (Annual Burden Hours and Costs)**

This section requires mine supervisors to prepare and post a notice of the corrective action taken to reduce the miner's exposure to or below the PEL. This will take 15 minutes of the mine supervisor's time. These annual burden hours and costs are displayed in Table 18. MSHA assumes that 20 percent of mines with fewer than 20 workers and 40 percent of larger mines will require corrective action.

**Table 18: Section 57.5071 - Mine Supervisor Prepares and Posts Notice of Corrective Action (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines (20%)	Prepare and Post Notice (Hrs.)	Annual Burden Hrs	Supervisory Wage (per hr.)	Annual Burden Cost
Small (<20)	13	0.25	3	\$62.40	\$187
Large (20 - 500)	21	0.25	5	\$62.40	\$312
Large (>500)	1	0.25	1	\$62.40	\$62
Total	35		9		\$561

**Section 57.5071 - Diesel Particulate Sampling by M/NM Mines (Annual Burden Hours and Costs)**

MSHA conducts its compliance sampling of miners' exposures to DPM at metal and nonmetal underground mines. All mine operators must conduct their own sampling as necessary to effectively determine if a miner's exposure exceeds the DPM PEL, based on conditions occurring at the mine. We project that sampling will be necessary 4 times per year. Each time sampling occurs, there will be 2 areas sampled per mine and in

each area, 3 samples will be taken. It will take a miner, earning \$26.78 per hour, 20 minutes (0.3333 hrs) to perform one sample. Table 19 shows burden hours and related costs to operators that perform their own sampling.

**Table 19: Section 57.5071 - Sampling by Operators (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines	# of Samples Annually per Mine <sup>a</sup>	Time to Take a Sample (Hrs.)	Annual Burden Hrs.	Miner Wage (per Hr.)	Annual Burden Cost
Small (<20)	66	24	0.333	527	\$26.78	\$14,113
Large (20 - 500)	103	24	0.333	823	\$26.78	\$22,039
Large (>500)	4	24	0.333	32	\$26.78	\$857
Total	173			1,382		\$37,009

<sup>a</sup> 24 = 3 samples per area samples x 2 areas sampled per mine x 4 sample times per year.

For both operator and contract sampling, once sampling results are received, MSHA estimates that it will take a clerical worker 10 minutes to make two copies of a one-page notice and to post one and deliver the other to the miner's representative. These annual burden hours and costs appear in Table 20.

**Table 20: Section 57.5071 - Clerical Worker Copies and Distributes Sampling Results (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Mines	# of Samplings per Mine	Copy & Distribute (Hrs.)	Annual Burden Hrs.	Clerical Wage (per Hr.)	Annual Burden Cost
Small (<20)	66	4	0.167	44	\$22.78	\$1,002
Large (20 - 500)	103	4	0.167	69	\$22.78	\$1,572
Large (>500)	4	4	0.167	3	\$22.78	\$68
Total	173			116		\$2,642

**Section 57.5075 Clerical Workers Respond to Requests for Health Records by Miners (Annual Burden Hours and Costs)**

MSHA assumes that some miners leaving their jobs at the mine or former miners would request a copy of the health records generated by the requirements of this rule. These records would consist of copies of the exposure measurements that M/NM mine operators are required to maintain. MSHA estimates that 10 percent of miners will request health records each year. It will take a clerical worker five minutes to respond to each request. The annual burden hours and costs resulting from requests for health records appear in Table 21

**Table 21: 57.5075 - Clerical Workers Respond to Requests for Health Records by Miners (Annual Burden Hours and Costs)**

Mine Size (Emp.)	# of Miners	# of Requests (10%)	Respond to Request (Hrs.)	Annual Burden (Hrs)	Clerical Wage (per hr.)	Annual Burden Cost)
Small (<20)	580	58	0.083	5	\$22.78	\$114
Large (20 - 500)	8,500	850	0.083	71	\$22.78	\$1,617
Large (>500)	2,700	270	0.083	22	\$22.78	\$501
Total	11,780	1,178		98		\$2,232

**Section 57.5075 - Clerical Workers Respond to Requests for Health Records by Dept. of Health and Human Services (DHHS) (Annual Burden Hours and Costs)**

Upon request from an authorized representative of the U.S. Department of Health and Human Services (DHHS), underground MNM mine operators must provide access to health records. Initially, MSHA estimated that DHHS would request a copy of sampling results from 10 percent of the mines. To date, MSHA has received no such requests from HHS so these costs are eliminated.

**30 C.F.R Sections 57.5060(d)(3), (d)(4) and (d)(8)**

For the 350 TC PEL:

This limited term rule expired and it has been replaced with a 160 TC limit.

For the 160 TC PEL:

Mine operators must provide information annually to the PLHCP so the PLHCP may perform an evaluation for the respiratory protection program. This takes a mine supervisor 1 hour to provide the information. See Table 22 below.

**Table 22: The 160 TC level - Supervisor Time to Provide Material to PLHCP**

Mine Size (Emp.)	No. of Mines	Times Each Year	Annual Burden Hrs.	Superv. Wage (per Hr.)	Annual Burden Cost
Small (<20)	2	1	2	\$62.40	\$125
Large (20 - 500)	10	1	10	\$62.40	\$624
Large (>500)	1	1	1	\$62.40	\$62
Total	13		13		\$811

The miner must take the time to have the evaluation performed by the PLHCP

concerning the respiratory protection program. This is done once per year, and takes 2 hours and 40 minutes (2.67 hours) of the miner's time. See Table 23 below.

Table 23: The 160 TC level - Miner Time for Evaluation From PLHCP

Mine Size (Emp.)	# of Miners	Times Each Year	Annual Burden Hrs.	Miner Wage (per Hr.)	Annual Burden Cost
Small (<20)	32	1	32	\$26.78	\$857
Large (20 - 500)	180	1	180	\$26.78	\$4,820
Large (>500)	16	1	16	\$26.78	\$428
Total	228		228		\$6,105

If miners disagree with the PLHCP determination, they can provide additional evidence to the PLHCP. MSHA estimates that a certain number of miners evaluated will disagree with the PLHCP evaluation and need to spend some time providing a response to the PLHCP. For the fourth year the rule is in effect at the 160 TC Limit, and for every year thereafter, the Agency estimates that each affected miner will provide a response once per year and that it takes 2 hours and 40 minutes (2.67 hours) of the miner's time. See Table 24 below.

Table 24: The 160 TC level - Miner Time to Respond to Evaluation

Mine Size (Emp.)	# of Miners	Times Each Year	Miners Time	Annual Burden Hrs.	Miner Wage (per Hr.)	Annual Burden Cost
Small (<20)	1	1	2.67	3	\$26.78	\$80
Large (20 - 500)	1	1	2.67	3	\$26.78	\$80
Large (>500)	1	1	2.67	3	\$26.78	\$80
Total	3			9		\$240

The mine operator must maintain a record of the identity of the PLHCP and the most recent written determination of each miner's ability to wear a respirator for the duration of the miner's employment plus six months. For the fourth year the rule is in effect at the 160 TC Limit, and for every year thereafter, the Agency estimates that it takes a clerical worker 3 minutes (0.05 hours) to maintain a record for each affected miner. See Table 25 below.

Table 25: § 57.5060(d)(8) - The 160 Level (To Maintain a Record)

Mine Size	# of	Times Each	Miner's	Annual	Miner Wage	Annual
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(Emp.)	Miners	Year	Time	Burden Hrs.	(per Hr.)	Burden Cost
Small (<20)	2	1	0.05	0.10	\$26.78	\$3
Large (20 - 500)	11	1	0.05	0.55	\$26.78	\$15
Large (>500)	1	1	0.05	0.05	\$26.78	\$1
Total	14			.7		\$19

If the PLHCP determines that the miner cannot wear a negative pressure respirator, the mine operator must make certain that the PLHCP evaluates the miner's ability to wear a powered air-purifying respirator. For each year the rule is in effect at the 160 TC Limit, the Agency estimates that it takes 2.67 hours of the miner's time. See Table 26 below.

Table 26 - § 57.5060(d)(3) - The 160 Level (Miner's Ability to Wear PAPR)

Mine Size (Emp.)	# of Miners	Times Each Year	Miners Time	Annual Burden Hrs.	Miner Wage (per Hr.)	Annual Burden Cost
Small (<20)	1	1	2.67	3	\$26.78	\$80
Large (20 - 500)	1	1	2.67	3	\$26.78	\$80
Large (>500)	1	1	2.67	3	\$26.78	\$80
Total	3			9		\$240

Additional information would have to be maintained in the record by a clerical worker for those miners that require additional evaluation. At the 160 TC Limit, MSHA estimates that it would take 3 minutes (0.05 hours) to record the additional information. See Table 27 below.

Table 27 - § 57.5060(d)(8) - The 160 Level (Additional Information for Record)

Mine Size (Emp.)	# of Miners	Times Each Year	Miners Time	Annual Burden Hrs.	Miner Wage (per Hr.)	Annual Burden Cost
Small (<20)	1	1	0.05	0.05	\$26.78	\$1
Large (20 - 500)	2	1	0.05	0.10	\$26.78	\$3
Large (>500)	1	1	0.05	0.05	\$26.78	\$1
Total	4			0.20		\$5

### Summary of Burden Hours and Responses for Item 12

Table	Regulation	Responses	Hours
1	57.5060(c) Supervisor	4	16
2	57.5060(c) Clerical	0	1
3	57.5060(d) Respirator Training	173	130
4	57.5060(d) Fit Testing	173	44
5	57.5066(b) Tag & Record	1,774	119
6	57.5066(b) Examine Tags	1,774	354
7	57.5066(c) Create and Maintain Records	29	19
8	57.5070 Supervisor Briefing	173	15
9	57.5070 Clerical Briefing	0	15
10	57.5070 Supervisor Perform Training	437	203
11	57.5070 Clerical Prepare Form	437	73
12	57.5070 Sign Attendance Sheet	11,780	70
13	57.5071 Oral Notification	78	11
14	57.5071 Supervisor Briefs Clerical - Written	61	6
15	57.5071 Clerical - Written Notification	0	342
16	57.5071 Supervisor Briefs Clerical - Posted	35	12
17	57.5071 Clerical Briefed; Prepare & Post	0	35
18	57.5071 Supervisor Prepares and Posts Notice	35	9
19	57.5071 Sampling by Operators	173	1,382
20	57.5071 Clerical - Copy & Distribute	173	116
21	57.5075 Clerical Respond to Miner Requests	1,178	98
22	57.5060(d)(3)(4)(8) Supervisor Provide Material	13	13
23	57.5060(d)(3)(4)(8) Miner Evaluation	228	228
24	57.5060(d)(3)(4)(8) Miner Response	3	9
25	57.5060(d)(8) Maintain Record	14	1
26	57.5060(d)(3) Ability to Wear PAPR	3	9
27	57.5060(d)(8) Record Information	4	1
<b>GRAND TOTAL</b>		<b>18,752</b>	<b>3,331</b>

**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.

**Section 57.5060(d) - Cost to Purchase and Maintain Respirators**

Annually, mines employing fewer than 20 workers will purchase 4 respirators, while those employing 20 or more workers will purchase 12 respirators. The cost of a respirator is \$30. Each week the respirator uses one filter costing \$2. Respirators were initially purchased for all affected employees when the rule became effective. The below estimates are for replacement respirators for the initially affected miners and for newly hired employees. It is estimated that respirators will have to be replaced every three years

The annual costs to purchase respirators will be as follows:

**Table 28. Section 57.5060(d) - Costs to Purchase and Maintain Respirators**

Mine Size	# of Mines	# of Respirators	Annual Cost	Annual Costs
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(Emp.)		per Mine	per Respirator <sup>a</sup>	
Small (<20)	66	2	\$134	\$17,688
Large (20 - 500)	103	6	\$134	\$82,812
Large (>500)	4	8	\$134	\$4,288
Total	173	16		\$104,788

<sup>a</sup> \$134 = \$30 (for the respirator) + \$2/cartridge/week x 52 weeks)

### **Section 57.5071 - Annual Costs of Sampling for Those Mines That Contract Out Their Sampling Responsibilities**

MSHA initially estimated that mines would contract out their DPM sampling responsibilities; however, MSHA is not aware of any mine doing so and the MSHA has deleted these estimated costs.

### **Section 57.5071 - Equipment Costs for Those Mines that Perform Their Own Sampling**

Mines performing their own DPM sampling pay \$33 to have each sample analyzed, plus \$20 for a disposable cassette. Annually, mines employing fewer than 20 workers will have 12 samples analyzed, while mines employing 20 or more workers will have 24 samples analyzed. The annual costs related to analyzing DPM samples for operators that conduct their own sampling will be as follows:

**Table 29. Annual Costs for Analyzing Samples**

Mine Size (Emp.)	# of Mines	# of Samples per Mine	Cost per Sample <sup>a</sup>	Total Annual Costs
Small (<20)	1	12	\$53	\$636
Large (20 - 500)	52	24	\$53	\$66,144
Large (>500)	2	24	\$53	\$2,544
Total	54			\$69,324

<sup>a</sup> \$53 = \$20 for disposable filter cassette + \$33 to analyze sample.

### **Section 57.5075 - Annual Costs for Miners Requests of Health Records**

Miners and former miners can request health records. The annual number of requests is estimated as 10% of miners. Each request is estimated to be 4 pages in length, photocopy costs are \$0.15 per page, and postage is \$0.42 per request. Annual costs for miners related to requesting health records will be as follows:

**Table 30. Section 57.5075 - Annual Costs for Miners Requests of Health Records**

Mine Size (emp.)	# of Miners	# of Requests (10%)	Copying costs per Request <sup>a</sup>	Postage per Request	Total annual Costs
Small (<20)	580	58	\$0.60	\$0.42	\$59
Large (20 - 500)	8,500	850	\$0.60	\$0.42	\$867
Large (>500)	2,700	270	\$0.60	\$0.42	\$275
Total	11,780	1,178			\$1,201

<sup>a</sup> \$0.60 = 4 pages x \$0.15/page

In addition, the Department of Health and Human Services (DHHS) can request health records. Initially, the number of such annual requests was estimated to be about 18 per year. To date, MSHA has received no such requests from HHS, and these costs have been eliminated.

**Section 57.5060(d)(3) - Cost of Medical Evaluations (from May 18, 2006 rule)**

There are two medical evaluations indicated in section 57.5060(d)(3). The simpler medical evaluation by the physician or other licensed health care professional (PLHCP) is required of all miners who must wear respirators. The simpler evaluation costs \$50. The more complex medical evaluation is required only of those miners who cannot wear a negative pressure respirator. The more complex medical evaluation determines whether the miner can wear a powered air purifying respirator (PAPR). The more complex evaluation is required of only 10% of the miners and costs \$250 additional. On a per-miner basis, the medical evaluations cost, on average, \$75 per miner. This is calculated as  $\$50 + 10\% \times \$250 = \$75$ .

For the 160 TC limit, mine operators must obtain medical evaluations from the PHLCP for each additional miner who must use a respirator. See Table 31 below.

**Table 31: §57.5060(d)(3) - The 160 Level (Cost to Provide Medical Evaluations)**

Mine Size (emp.)	# of Miners	Cost Per Miner	Total Third Party Cost
Small (<20)	2	\$75	\$150
Large (20 - 500)	11	\$75	\$825
Large (>500)	1	\$75	\$75
Total	14		\$1,050

**Summary of Burden Cost for Item 13**

Table	Regulation - Tables 28-31	Cost
28	57.5060(d) Purchase and Maintain Respirators	\$104,788
29	57.5071 Analyze Samples	\$69,324
30	57.5075 Miner Request of Health Record	\$1,201

31	57.5060(d)(3) Medical Evaluations	\$1,050
<b>Total Burden Cost</b>		<b>\$176,363</b>

**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.**

At least once a year, MSHA inspectors will take miners' personal samples to measure their exposure to DPM in MNM underground mines that use diesel-powered equipment. On average, an inspector, earning about \$32.25 per hour (GS 12/5, 2009 wage rate without locality pay), will perform the sampling. On average, the time to sample a miner for the full shift in one working area will be 9 hours in a mine that employs fewer than 20 workers, and 10 hours in a mine that employs 20 or more workers. Five samples are estimated to be taken in each working area. Sixty six (66) mines employing fewer than 20 workers are estimated to have, on average, 1 working area, while 103 mines employing 20 or more workers are estimated to have, on average, 2 working areas. The annual costs to take samples will be as follows:

**Table 32 Annual Costs for MSHA Inspectors to Take DPM Samples**

Mine Size (Emp.)	# of Mines	Time to Sample Miners in one Area (hrs.)	Average # of Working Areas to Sample	Inspector Wage Rate (hr.)	Annual Costs to Sample
Small (<20)	66	9	1	\$32.25	\$19,157
Large (20 - 500)	103	10	2	\$32.25	\$66,435
Large (>500)	4	10	2	\$32.25	\$2,580
Total	173				\$88,172

When each sample is taken a filter is needed costing about \$35.

**Table 33. Cost of Filters for Sampling**

Mine Size (Emp.)	# of Mines	Average # of Working Areas to Sample	# of Samples Taken per Working Area	Cost of Filter per Sample	Annual Costs for Filters.
Small (<20)	66	1	5	\$35	\$11,550
Large (20 - 500)	103	2	5	\$35	\$36,050

Large (>500)	4	2	5	\$35	\$1,400
Total	173				\$49,000

It takes a GS 12/5 analyst earning \$32.25 an hour approximately 1 hour to analyze one DPM sample. It takes a GS 13/5 earning \$38.35 one hour to upload the results of about 20 samples to MSHA's database. The costs to analyze the samples and upload the resultant data are as follows:

**Table 34. Annual Costs for MSHA to Analyze Samples and Upload Data**

Mine Size (Emp.)	# of Mines	Avg. # of Areas Sampled Per Mine	Avg. # of Samples per Area	Total # of Samples	MSHA Labor Cost to Analyze Sample	MSHA Labor Cost to upload DPM data (20 results per hour)	Total Annual Costs for Analysis and Upload
Small (<20)	66	1	5	330	\$10,643	\$633	\$11,276
Large (20 - 500)	103	2	5	1,030	\$33,218	\$1,975	\$35,193
Large (>500)	4	2	5	40	\$1,290	\$77	\$1,367
Total	173			1,400	\$45,151	\$2,685	\$47,836

**Total cost to the Federal Government \$185,008**

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

The previous submission accounted for many start-up or one time items. With the slight decrease in respondents, and the elimination of many start-up items, the overall burden has decreased for this submission as follows:

Respondents from 177 to 173 (decrease 4)  
 Responses from 21,264 to 18,752 (decrease 2,512)  
 Hours from 6,140 to 3,331 (decrease 2,809)  
 Costs from \$565,000 to \$176,363 (decrease \$388,637)

**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 the beginning and**

**ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results of the samples are available to the public on the MSHA internet, [www.MSHA.gov](http://www.MSHA.gov) under the "Data Retrieval System" link.

**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 has no forms associated with this collection of information on which to display an expiration date.

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

There are no certification exceptions identified with this information collection.

## **B. COLLECTIONS 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 method 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.
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 frequent 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 persons(s) who will actually collect and/or analyze the information for the agency.**

The collection of this information does not employ statistical methods.

**The Federal Mine Safety & Health Act of 1977,  
Public Law 91-173,  
as amended by Public Law 95-164**

An Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.  
That this Act may be cited as the "Federal Mine Safety and Health Act of 1977".*

TITLE I--GENERAL  
MANDATORY SAFETY AND HEALTH STANDARDS

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.