

March, 2014

Information Collection Request 1219-ONEW Unique
Associated RIN: 1219-AB64

NOTE TO REVIEWER

Several provisions in this information collection request (ICR) impact information collections approved under control numbers: 1219-0011, 1219-0088, and 1219-0009. The provisions in the final rule that contain Information Collection (IC) requirements are as follows:

IC# 1219-0011: 70.201(b)(2), (e), (f), (g), (j); 70.205(b)(2); 70.206(e)(3), (h)(3), (i)(2); 70.207(d)(3), (g)(3), (h)(2); 70.208(e)(3), (h)(3), (i)(2); 70.209(c)(3), (f)(3), (g)(2); 70.210(a), (c), (f); 70.211(b), (c); 70.212(a)

71.201(a), (d), (e); 71.205(b)(2); 71.206(d), (e), (h)(3), (k)(3); 71.207(a), (c), (f); 71.208(b), (c); 71.209(a); 71.300(a), (a)(1), (a)(3); 71.301(d)(1), (d)(3)

90.201(f), (g), (j); 90.205(b)(2); 90.207(c)(3), (f)(3); 90.208(a), (c), (f); 90.209(b), (c); 90.210; 90.300(a); 90.301(d)

IC# 1219-0088: 75.362(a)(2), (g)(2)(i), (g)(2)(ii), (g)(3); 75.370(a)(2), (a)(3)(i), (a)(3)(iii), (f)(1), (f)(3); 75.371(f), (j)

IC# 1219-0009: 70.201(i), 71.201(h), 72.700(c), and 90.201(i)

IC# 1219-ONEW Unique: 72.100(d); 72.100(e)

To assist the public to understand the IC requirements in the *Lowering Miners' Exposure to Coal Mine Dust Including Continuous Personal Dust Monitors* final rule, and because of the complexity of having to revise the existing ICRs to conform with the various phase-in schedules of the final rule, MSHA is requesting pre-approval of a new ICR. This new ICR identifies provisions of the final rule that impact existing ICs. To assist readers familiar with existing MSHA IC requirements, this justification mentions the control numbers containing similar IC requirements.

MSHA will activate the pre-approved ICR when the first IC in the final rule takes effect and submit non-material change requests to disaggregate the ICs to the relevant control numbers after the rule is effective.

In the answer to question 12 of this analysis, burden hours are reported in total without regard to mine size for those final provisions where the time to perform the activity does

not vary by mine size. Otherwise, a breakdown of burden hours are reported by mine size for final provisions where the time to perform the activity varies by mine size.

Existing control number 1219-0011 contains IC requirements related to respirable coal mine dust sampling, and existing control number 1219-0088 contains IC requirements related to ventilation plans, tests, and examinations in underground coal mines. The final rule contains various IC requirements in new sections, or revises or redesignates existing sections that have IC requirements. With respect to ICs approved under control numbers 1219-0011 and 1219-0088, this ICR only addresses provisions affected by the final rule.

Final §§ 70.201(i), 71.201(h), 72.700(c), and 90.201(i) contain IC requirements for coal mine operators to make records of training. These requirements are similar to IC requirements in existing IC# 1219-0009. Existing IC# 1219-0009 requires records to be made of training provided to miners at coal and metal and nonmetal mines.

Final § 72.100 is a new section containing IC requirements in paragraphs (d) and (e). After disaggregating other IC requirements and burdens to the existing control number, this ICR will continue to maintain PRA approval for the new requirements found in final rule paragraphs 72.100(d) and (e). The medical surveillance periodic examination records required under these provisions contain ICs that are not compatible with an existing IC package.

SUPPORTING STATEMENT

Final Rule: Lowering Miners' Exposure to Coal Mine Dust Including Continuous Personal Dust Monitors

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the *Federal Register*, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When the question "Does this ICR contain surveys, censuses or employ statistical methods" is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Chronic exposure to respirable coal mine dust causes lung diseases including coal worker's pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis, known collectively as "black lung." There are no specific treatments to cure black lung. Chronic effects may progress even after miners are no longer exposed to respirable coal mine dust resulting in increased disability and death. Other complications, such as pulmonary and cardiac failure, may result in total disability and premature death.

Considerable progress has been made in lowering respirable coal mine dust levels since 1970 and, consequently, lowering the prevalence rate of CWP among coal miners. However, severe forms of this disease continue to be identified. Information from the federally funded Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) clearly indicate that CWP remains a key occupational health risk among our nation's coal miners. NIOSH reported CWP prevalence for miners who voluntarily participated in the Coal Workers X-ray Surveillance Program (CWXSP) (1970-2009). NIOSH surveillance data (2005 to 2009) indicate that 6.9% of underground coal miners with over 25 years of exposure to respirable coal mine dust were diagnosed with CWP. Approximately 0.6% of miners

with less than 10 years of respirable coal mine dust exposure were diagnosed with CWP during the same time period. These younger miners had less cumulative exposure to respirable coal mine dust than the miners with over 25 years exposure. Overall, 4.1% of all underground coal miners were diagnosed with CWP during the 2005 to 2009 time period. (NIOSH: CWXSP - Coal Workers' X-ray Surveillance Program- Ref. No. 2011T02-12, <http://www2a.cdc.gov/drds/WorldReportData>). Furthermore, as of December 2011, according to the Department of Labor's Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, the federal government has paid over \$45 billion in Federal Black Lung benefits to beneficiaries (former miners, widows, dependents) since 1970 (<http://www.dol.gov/owcp/dcmwc/statistics/TotalBenefitsPayment.htm>).

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813(h), authorizes Secretary of Labor (Secretary) to collect information necessary to carry out its duty in protecting the safety and health of miners. Section 101(a) of the Mine Act , 30 U.S.C. § 811, authorizes the Secretary to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Many IC requirements of this final rule change the existing IC requirements under Part 70 (Mandatory Health Standards for Underground Coal Mines). Many of these changes result from final rule provisions that require the use of the continuous personal dust monitor (CPDM) to sample certain occupations for respirable coal mine dust. Similar IC requirements are found in final Part 71(Mandatory Health Standards for Surface Coal Mines and Surface Work Areas of Underground Coal Mines), and Part 90 (Mandatory Health Standards for Coal Miners Who Have Evidence of the Development of Pneumoconiosis). In addition, there are two new IC requirements in final § 72.100 that address records for medical surveillance periodic examinations for underground and surface coal miners.

IC 1219-0011 – Respirable Coal Mine Dust Sampling

Existing IC # 1219-0011 contains IC requirements related to respirable coal mine dust sampling. The final rule contains various IC requirements in new sections, or revises or redesignates existing sections with IC requirements related to respirable coal mine dust sampling.

MSHA's existing standards require that coal mine operators sample bimonthly and submit these samples to MSHA for analysis to determine if the mine is complying with the applicable dust standards. Underground coal mine operators must sample: the Designated Occupation (DO) in each Mechanized Mining Unit (MMU) under existing 30 CFR § 70.207; each Designated Area (DA) at locations specified in the operator's approved mine ventilation plan under existing 30 CFR § 70.208; and each part 90 miner under existing 30 CFR § 90.208. Designated Work Positions (DWP) at surface coal

mines and surface work areas of underground coal mines must be sampled under existing 30 CFR § 71.208.

Sampling, General and Technical Requirements under Final Parts 70, 71, and 90

Final § 70.201(b)(2) requires that DAs identified by the underground coal operator be sampled quarterly only with an approved Coal Mine Dust Personal Sampling Unit (CMDPSU) unless the operator notifies the District Manager in writing that only an approved CPDM will be used for all DA sampling at the mine. With respect to DWP sampling, final § 71.201(a) requires each surface coal mine operator and each underground coal mine operator who is sampling on the surface to sample with an approved CMDPSU, however, the operator may use an approved CPDM 18 months after the effective date of the rule if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. There are no burden estimates for these final 70.201(b)(2) and 71.201(a) provisions because: underground coal operators are not expected to take DA samples with the CPDM; underground coal operators sampling on the surface are not expected to take DWP samples with the CPDM; and surface coal operators are not expected to take DWP samples with the CPDM.

Final §§ 70.201(e), 71.201(d), and 90.201(f) require that coal mine operators make records showing the length of: each production shift for each MMU; each normal work shift for each DWP; and each shift for each part 90 miner. These final provisions also require that the records be retained for at least six months, made available for inspection by authorized representatives of the Secretary and, except in the case of part 90 miners, by the representative of miners. The records must also be submitted to the District Manager when requested in writing. Final § 70.211(c) requires that, when CPDMs are used for sampling, underground coal operators print, sign and post a paper record (dust data card) with the shift length and other information regarding sampling for each location sampled under Part 70. Under final § 90.209(c), coal mine operators must print, sign and provide to each part 90 miner a dust data card with the shift length and other information regarding sampling when CPDMs are used. Under final §§ 70.210(c) and 90.208(c), the operator must complete a dust card if using a CMDPSU. There are no separate burdens shown for final §§ 70.201(e) and 90.201(f) because MSHA assumed that records of shift length are made at the same time that the dust data card is being completed under: (1) final §§ 70.211(c) and 90.209(c) when sampling with a CPDM, and (2) final §§ 70.210(c) and 90.208(c) when sampling with a CMDPSU because sufficient time exists to record shift length if using a CMDPSU. Thus, the burdens for underground coal operators to record shift length for MMUs and part 90 miners required by final §§ 70.201(e) and 90.201(f) are accounted for in the burdens for final §§ 70.211(c), 90.209(c), 70.210(c), and 90.208(c). However, a burden is shown separately for final § 71.201(d) for underground coal mine operators that have surface operations and sample DWPs, and for surface coal mine operators that sample DWPs. This burden for DWP sampling by surface coal mines operators and by

underground coal mine operators who sample on the surface is shown separately because Part 71 mandatory health standards apply to surface coal mines and surface work areas of underground coal mines. In addition, the final rule will require approximately 80 percent of surface coal mines to conduct DWP sampling for the first time.

Final §§ 70.201(f), 71.201(e), and 90.201(g) require that upon request from the District Manager, the operator must submit the date and time any respirable dust sampling required by part 70, 71, or 90 will begin. The mine operator must submit this information to MSHA at least 48 hours prior to scheduled sampling. When requested, this information permits MSHA to monitor operator sampling activities. No increased burdens are estimated for final §§ 70.201(f), 71.201(e), and 90.201(g) in this IC package because MSHA does not expect the burdens to be different from the burdens in existing §§ 70.201(c), 71.201(c), and 90.201(c) which have similar requirements.

Final § 70.201(g) requires that in order to establish a normal production shift, the operator must record the amount of run-of-mine material (coal and rock) produced by each MMU during each shift to determine the average production for the most recent 30 production shifts or for all production shifts if fewer than 30 shifts of production data are available. It also requires that the production records must be retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Final §§ 70.201(j) and 90.201(j) allow the mine operator of an anthracite mine that uses the full box, open breast, or slant breast mining method to use either a CPDM or a CMDPSU for respirable coal mine dust sampling required under part 70 or part 90. However, if the mine operator chooses not to use a CPDM, he must notify the District Manager in writing of this decision. In order to estimate the full cost impact of the rule upon coal mine operators, MSHA assumed that these operators will use the CPDM for the required sampling. Therefore, no burden was estimated at this time for these operators to notify the District Manager of their choice not to use the CPDM. However, when the rule becomes effective, operators may reevaluate whether to use the CPDM. Therefore, future updates to this package may result in a burden for these provisions.

Sampling under Final Parts 70, 71, and 90

Final §§ 70.205(b)(2), 71.205(b)(2), and 90.205(b)(2) require that if a CMDPSU is used to sample respirable coal mine dust, each approved sampling device must be examined each shift by a person certified in sampling during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable coal mine dust samples that may affect the validity of the sample, such as

dropping of the sampling head assembly onto the mine floor, must also be noted on the back of the dust data card. The burdens for these final requirements are included in the burdens estimated to complete the dust data cards under final §§ 70.210(c), 71.207(c) and 90.208(c).

Bimonthly Sampling Requirements for Final Part 70

Bimonthly sampling requirements are in final § 70.206 for MMUs and final § 70.207 for designated areas (DAs). Final §§ 70.206(e)(3) and 70.207(d)(3) require that when a valid representative sample meets or exceeds the excessive concentration value (ECV) that corresponds to the applicable standard and particular sampling device used for either an MMU or DA, respectively, the operator must make, upon implementation of corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Final §§ 70.206(h)(3) and 70.207(g)(3) require that mine operators, upon issuance of a citation for a violation of the applicable standard involving either an MMU or DA, respectively, make, upon implementation of corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Quarterly Sampling Requirements for Final Parts 70, 71, and 90

Quarterly sampling requirements are in final § 70.208 for MMUs, final § 70.209 for DAs, and final § 90.207 for part 90 miners. Final §§ 70.208(e)(3), 70.209(c)(3), and 90.207(c)(3) require that when a valid representative sample meets or exceeds the ECV that corresponds to the applicable standard and particular sampling device used for either an MMU or DA, respectively, or that corresponds to the applicable standard and particular sampling device used for part 90 miner sampling, the operator must make, upon implementation of corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

Final §§ 70.208(h)(3), 70.209(f)(3), and 90.207(f)(3) require that mine operators, upon issuance of a citation for violation of the applicable standard for either an MMU, DA, or part 90 miner, respectively, must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and, except for part 90 miners, the representative of miners. Also, the records must be made available for inspection by the affected part 90 miner who was sampled.

DWPs at surface coal mines and surface work areas of underground coal mines must be sampled quarterly under final § 71.206. Under final § 71.206(d), operators with multiple work positions that are specified in final § 71.206(c)(2) and (c)(3) must sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator must provide the District Manager with a list identifying the specific work positions where DWP samples will be collected for: active mines; new mines; and DWPs with a change in operational status that increases or reduces the number of active DWPs.

Final § 71.206(e) requires that each DWP sample must be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample must be transmitted to MSHA with a notation by the person certified in sampling on the back of the dust data card stating that the sample was not taken on a normal work shift. Final § 71.207(c) requires that a person certified in sampling properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). A separate burden has not been included for final § 71.206(e) since MSHA assumed that any notations can be made at the same time that the dust data card is completed under final § 71.207(c) and, therefore, any burden would be minimal.

Final § 71.206(h)(3) requires that when a valid representative sample taken in accordance with this section meets or exceeds the ECV that corresponds to the

applicable standard and particular sampling device used, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners. There are no separate burden estimates projected for final § 71.206(h)(3) because MSHA does not consider that the surface sampling data that exists is sufficient to determine the number of times that only one sample taken on the surface meets or exceeds the applicable ECV and therefore does not result in a citation. Therefore MSHA assumed that surface samples that meet or exceed the applicable ECV, in accordance with § 71.206(k)(3), will result in a citation, and this burden appears below under final § 71.206(k)(3).

Final § 71.206(k)(3) requires that upon issuance of a citation for violation of the applicable standard, the operator must make, upon implementation of the corrective actions, a record of the actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Transmission of Respirable Coal Mine Dust Samples by the Operator under Final Parts 70, 71, and 90

Final §§ 70.210(a), 71.207(a), and 90.208(a) require that if a CMDPSU is used to sample, the operator must transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of part 70, 71, or 90, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochran's Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

Final §§ 70.210(c), 71.207(c), and 90.208(c) require that a person certified in sampling properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may

be voided by MSHA.

Final §§ 70.210(f), 71.207(f), and 90.208(f) require that if a CPDM is used to sample, the person certified in sampling must validate, certify and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

The burdens for final §§ 70.210(a), (c), and (f), 71.207(a) and (c), and 90.208 (a), (c), and (f) are included in the burdens for final §§ 70.210, 71.207, and 90.208. However, since final §71.207(f) pertains only to using the CPDM and since operators of surface coal mines and of surface work areas of underground coal mines are only required to use the CPDM for part 90 miner sampling, the burden for final § 71.207(f) is accounted for in the burden for final § 90.208(f).

Report to the Operator of Respirable Dust Samples; Post or Provide Results and Report under Final Parts 70, 71, and 90

Final §§ 70.211(b) and 71.208(b) require that upon receipt of the sampling report that contains sampling results from MSHA, the operator must post the data for at least 31 days on the mine bulletin board. Final §§ 70.211(c) and 71.208(c) require the operator, if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record must include the data entered when the sample run was first programmed and the following: the mine identification number; the locations or DWP within the mine from which the samples were taken; the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; the sampling status conditions encountered for each sample; and the shift length.

Final § 90.209(b) requires that upon receipt of the sampling report from MSHA, the operator must provide a copy to the part 90 miner only. Final § 90.209(c) requires that if using a CPDM, the person certified in sampling must print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard-copy record must include the data entered when the sample run was first programmed, and the following: the mine identification number; the location within the mine from which the sample was taken; the concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; the sampling status conditions encountered for each sample; the shift length; and the part 90 miner's MSHA Individual Identification Number (MIIN).

Operational Status Changes under Final Parts 70, 71, and 90

Final §§ 70.212(a), 71.209(a), and 90.210 require that if there is a change in operational status that affects the respirable dust sampling requirements of part 70, 71, or 90, respectively, the operator must report the change in operational status of the mine, MMU, DA, DWP, or part 90 miner (such as the part 90 miner entering a terminated, injured or ill status, or returning to work) to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or electronically within 3 working days after the status change has occurred. Because operators are currently required to provide status change reports to MSHA District Managers under existing §§ 70.220, 71.220, and 90.220, the Agency expects any change under the final rule from what is estimated under existing requirements will be de minimus.

Revised Dust Control Parameters in the Mine Ventilation Plan in Response to Violations of the Applicable Standard under Final Part 70

Final §§ 70.206(i)(2), 70.208(i)(2), 70.207(h)(2), and 70.209(g)(2) provide that a citation for violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU or the DA in the citation and such changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Final Part 71

Final § 71.300(a) requires that the operator must submit to the District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation within 15 calendar days after the termination date of a citation for violation of the applicable standard. The respirable dust control plan and revisions must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard at the DWP identified in the citation.

Final § 71.300(a)(1) requires that the mine operator must notify the representative of miners at least 5 days prior to submission to MSHA of a respirable dust control plan and any revision to a dust control plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification.

Final § 71.300(a)(3) requires that a copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted for Agency approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn, or denied.

Under final § 71.301(d)(1), the approved respirable dust control plan and any revisions must be provided upon request to the representative of the miners by the operator following notification of approval.

Under final § 71.301(d)(3), the plan or revisions must be posted on the mine bulletin board within 1 working day following notification of approval and remain posted for the period that the plan is in effect.

Dust Control Plan Provisions in Response to Violations of the Applicable Standard under Final Part 90

Final § 90.300(a) requires that if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator must submit to the District Manager for approval a written respirable dust control plan for the part 90 miner in the position identified in the citation within 15 calendar days after the citation is terminated. The respirable dust control plan and revisions thereof must be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard for that part 90 miner.

Final § 90.301(d) requires the operator to provide a copy of the current respirable dust control plan to the part 90 miner.

IC 1219-0009 – Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines

Final §§ 70.201(i), 71.201(h), 72.700(c), and 90.201(i) contain IC requirements for coal mine operators to make records of training. These requirements are similar to IC requirements in existing IC# 1219-0009. Existing IC# 1219-0009 requires records of training provided to miners at coal and metal and nonmetal mines.

Final §§ 70.201(i), 71.201(h), and 90.201(i) require each mine operator to keep a record of CPDM training at the mine site for 24 months after completion of the training. An operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission. Upon request from an authorized representative of the Secretary, or representative of miners, the operator must promptly provide access to any such training records. There is no separate burden estimate for final § 71.201(h) because the only surface coal miners that are expected to be sampled with the CPDM and need CPDM training are part 90 miners. Therefore, the burden for final § 71.201(h) is accounted for in the burden for final § 90.201(i).

Final § 72.700(c) requires that each mine operator must keep a record of the training miners received on the care, fit, use and limitations of each type of respirator used at the mine. The record must include: (1) the date of training; (2) the names of miners

trained; and (3) the subjects included in the training. Records are required to be kept for 24 months after completion of the training. The mine operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission.

IC 1219-0088 – Ventilation Plans, Tests, and Examinations in Underground Coal Mines

Existing IC# 1219-0088 contains IC requirements related to ventilation plans, tests, and examinations in underground coal mines. The final rule contains various IC requirements in new sections, or revises or redesignates existing sections with IC requirements related to ventilation plans, tests, and examinations in underground coal mines.

Final 75.362 On-shift Examinations

Final § 75.362(a)(2) requires that a person designated by the operator must conduct an examination and record the results and the corrective actions taken to assure compliance with the respirable dust control parameters specified in the approved mine ventilation plan. Existing § 75.362(a)(2) requires that an examination must be performed and that corrective actions must be taken but it does not require a record of the examination or corrective actions.

Under final § 75.362(g)(2)(i), the certified person directing the on-shift examination must certify by initials, date, and time on a board maintained at the section load-out or similar location showing that the examination was made prior to resuming production. No increased burden is estimated for final § 75.362(g)(2)(i) in this IC package because MSHA does not expect the burden to be different from the burden in existing § 75.362(g)(2).

Under final § 75.362(g)(2)(ii), the certified person directing the on-shift examination must verify, by initials and date, the record of the results of the examination required under final § 75.362(a)(2) to assure compliance with the respirable dust control parameters specified in the mine ventilation plan. Further, final § 75.362(g)(3) requires a mine foreman or equivalent mine official to countersign each examination record required under § 75.362(a)(2) after it is verified by the certified person under final § 75.362(g)(2)(ii), and no later than the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. Final § 75.362(g)(2)(ii) and (g)(3) are new burdens that are accounted for in this IC package.

Final § 75.371 Mine Ventilation Plan; Contents

Existing paragraph (a)(2) in § 75.370 (Mine ventilation plan; submission and approval) in IC# 1219-0088 contains the burden for underground coal mine operators to submit mine ventilation plan revisions for District Manager approval. Each mine ventilation plan

must include information that is specified by existing § 75.371 (Mine ventilation plan; contents). The final rule revises existing § 75.371(f) and (j). Final § 75.371(f) and (j) adds information related to respirable dust control measures that underground coal mine operators must provide in mine ventilation plans under existing § 75.370. This IC package (1219-ONEW Unique) includes the new information required by final § 75.371(f) and (j) by adding additional burden to existing § 75.370.

Final § 75.371(f) adds the following information that a mine operator must include in the mine ventilation plan: the minimum quantity of air that will be delivered to the working section for each MMU, and the identification by make and model, of each different dust suppression system used on equipment on each working section, including: (1) the number, types, location, orientation, operating pressure, and flow rate of operating water sprays; (2) the maximum distance that ventilation control devices will be installed from each working face when mining or installing roof bolts in entries and crosscuts; (3) procedures for maintaining the roof bolter dust collection system in approved condition; and (4) recommended best work practices for equipment operators to minimize dust exposure.

Final § 75.371(j) adds a requirement that for machine mounted dust collectors, the ventilation plan must include the type and size of dust collector screens used and a description of the procedures to be followed in properly maintaining dust collectors used on the equipment.

Existing § 75.370(a)(2) requires all underground coal mine operators to submit revisions for mine ventilation plans to MSHA. The burden to submit the additional information required by final § 75.371(f) and (j) as proposed revisions to the plan is accounted for in this package under existing § 75.370(a)(2). In addition, existing § 75.370(a)(3)(i) requires underground coal mine operators to notify the miners' representative at least 5 days prior to submission of mine ventilation plan revisions and, if requested, provide a copy of the revisions to the miners' representative at the time of notification. Existing § 75.370(a)(3)(iii) and (f)(3) require the operator to post a copy of the plan revisions, and existing § 75.370(f)(1) requires the operator to provide a copy of the revisions to the miners' representative, if requested. MSHA assumes that a copy of the revisions will be requested. The burdens for notification, providing requested copies, and posting associated with mine ventilation plan revisions resulting from final § 75.371(f) and (j) are accounted for in this package under existing § 75.370(a)(3)(i), (f)(1), (a)(3)(iii), and (f)(3) respectively.

IC 1219-ONEW Unique– Periodic Examinations

The Mine Act authorizes NIOSH to study the causes and consequences of coal-related respiratory disease, and in cooperation with MSHA, to carry out a program for early detection and prevention of pneumoconiosis. NIOSH administers the National Coal Workers' Health Surveillance Program (CWHSP), as specified in 42 CFR Part 37,

“Specifications for Medical Examinations of Underground Coal Miners.” Final § 72.100, Periodic examinations, expands this program to surface coal miners and adds spirometry, symptom assessment, and occupational history to the required medical examinations for all coal miners.

Final § 72.100 is a new section containing IC requirements in paragraphs (d) and (e). Paragraphs 72.100(d) and (e) are not compatible with any IC requirements in any existing IC package and are expected to remain under the new control number, once it is approved.

Final § 72.100(d) requires that each mine operator must develop and submit for approval to the National Institute of Occupational Safety and Health (NIOSH) a plan in accordance with 42 CFR part 37 for providing miners with the required periodic examinations specified in final § 72.100(a) and a roster specifying the name and current address of each miner covered by the plan.

Final § 72.100(e) requires that each mine operator must post on the mine bulletin board at all times the approved plan for providing the examinations specified in final § 72.100(a).

Paragraphs (d) and (e) of final § 72.100 are new MSHA IC requirements that mirror NIOSH IC requirements under 42 CFR § 37.4 (existing IC# 0920-0020). Including these requirements in the final rule will allow MSHA to use its inspection and enforcement authority to ensure that operators comply with these provisions.

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 respondents for the IC requirements of the final rule are coal mine operators. These IC requirements will be used by coal mine operators, miners, and state and federal mine inspectors.

IC 1219-0011 - Respirable Coal Mine Dust Sampling

Like IC requirements in existing IC 1219-0011, the records related to respirable dust sampling that are required under the final rule will assist mine operators, miners, and state and federal regulators to determine the adequacy of respirable coal mine dust control measures used to meet MSHA’s applicable coal mine respirable dust standards and protect miners from exposure to excessive levels of respirable coal mine dust.

Under existing IC requirements, this information, which is provided by operators, is vital to the effective administration of mine operators’ respirable coal mine dust control

programs and allows operators and MSHA to assess the programs' effectiveness. MSHA uses the information to determine which operators comply with required sampling requirements and dust standards, and which operators fail to protect miners from excessive dust concentrations and thus need to take appropriate measures to lower respirable dust levels in the mine atmosphere. After MSHA processes samples submitted by operators, the Agency uses the collected information to report sample results to mine operators. Miners are provided notification of sampling results when operators post them on the mine bulletin board or when operators provide Part 90 miners with copies of the results. The sampling results enable the Agency to effectively evaluate the adequacy of the coal mine operator's respirable dust control measures, identify mine operators for targeted enforcement activities, and plan and undertake special health emphasis initiatives, such as the "Miners' Choice Program" and the "End Black Lung ACT NOW!" initiative.

In addition, mine operators must submit respirable dust control plans and revisions for MSHA approval and, after MSHA-approval, comply with such plans. The requirement to post the plan, or provide a copy of the plan to the affected Part 90 miner, allows affected miners to acquaint themselves with the types and locations of dust control measures that are required to be used and maintained to control respirable coal mine dust. MSHA inspectors use the plan to determine whether the mine operator is complying with plan provisions and to assess the plan's continued effectiveness in maintaining compliance with the applicable standards.

IC 1219-0088 - Ventilation Plans, Tests, and Examinations in Underground Coal Mines

Like the existing requirements, the final rule requires each underground coal mine operator to keep records of on-shift examinations to assure compliance with respirable dust control parameters specified in the mine ventilation plan.

Records collected under existing IC 1219-0088 provide notice to mine management and miners on the oncoming shift of mine conditions, identify hazards on working sections during the previous shift, and verify that proper ventilation is being maintained under existing §§ 75.362 and 75.371. The information is available to all interested persons at the mine to assure them that the integrity of the ventilation system is being maintained. MSHA inspectors use the records to determine that required tests and examinations are made and that systems used to ventilate underground coal mines are maintained.

IC 1219-0009 – Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines

Like the requirements in existing IC 1219-0009, the final rule requires coal mine operators to keep records of training provided to miners. These records ensure that miners are trained in the care, fit, use, and limitations of respirators used at the mine, as well as the proper wearing and operation of the CPDM, and the importance of

monitoring respirable coal mine dust concentrations. Under existing IC 1219-0009, MSHA uses the records to ensure that all miners receive the required training.

IC 1219-0NEW Unique – Periodic Examinations

Final paragraphs § 72.100(d) and (e) include two new IC requirements related to records for medical surveillance periodic examinations for underground and surface coal miners. MSHA will use the information to ensure that operators submitted to NIOSH a plan for periodic examinations and a roster with names and current addresses of miners covered by the plan. In addition, the requirement to post the plan allows miners and MSHA to be informed of plan provisions and the availability of examinations.

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.

The final rule does not specify how records must be kept. They could be kept in the traditional manner in a book or stored electronically; provided, the records are secure, not susceptible to alteration, retrievable, and maintained at least for the time required by applicable regulations.

The final rule requires mine operators who use CPDMs to download their sampling data to a computer and transmit it electronically to MSHA, as well as, print out the data for posting on the mine bulletin board for interested parties to review. Electronic transmission of the CPDM data reduces errors related to transcribing the data and ensures that the data have not been altered. In addition, the quick assessment of sampling results from the CPDM provides operators and miners with real-time data that allows for immediate action to prevent miners from being overexposed to respirable coal mine dust. After downloading and transmitting the sampling data to MSHA, mine operators can store this information electronically.

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

IC 1219-0NEW Unique – Periodic Examinations

Existing NIOSH rules require a plan for providing underground coal miners with chest x-rays and a roster of names and current mailing addresses of miners covered by the plan. MSHA's final rule includes a requirement for operators to have a roster and a plan

submitted to NIOSH for approval in accordance with NIOSH's regulations in 42 CFR Part 37. MSHA's final rule requires the plan to include providing chest x-rays, spirometry, symptom assessment, and occupational history to both underground coal miners and surface coal miners. Where NIOSH and MSHA have overlapping requirements, adherence to the NIOSH requirements will satisfy the MSHA requirements. With the plan provisions in the final rule, MSHA will be able to enforce the requirements that coal mine operators provide the examinations within the time frames established under the final rule and at an approved facility. This does not impose a duplicative burden. In this ICR, MSHA has only calculated the additional burden imposed by the final rule.

MSHA knows of no other Federal or State IC requirements that duplicate other IC requirements in the final rule.

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

The provisions of the Mine Act and MSHA's standards and regulations apply to all mines, both large and small, because accidents, injuries, and illnesses can occur at any mine regardless of size. The legislative history of the Mine Act states that "it is not the intention of the Committee [on Human Resources] to distinguish mines by their size with respect to the applicability or enforcement of [MSHA's] mandatory health and safety standards" and that "the Secretary, in promulgating regulations regarding the keeping of records, and in other means of obtaining information, do so in a manner which minimizes the burden on operators consistent with his need to efficiently and effectively perform his enforcement responsibilities." [See S. Rep. No. 181, 95th Cong., 1st Sess. at 28 (1977)].

To minimize the impact of adjusting to the new burden, certain provisions of the final rule do not take effect until 18 or 24 months after the effective date of the rule. For example, the use of the CPDM for sampling certain occupations under final §§ 70.201 and 90.201 is required 18 months after the effective date of the rule and the reduction in respirable coal mine dust limits under final §§ 70.100, 71.100, and 90.100 is required 24 months after the effective date of the rule. The 18- and 24- month implementation dates will assist all operators, including small coal mine operators by giving them more time to incorporate the use of the CPDM in sampling, evaluate and/or upgrade existing controls, and comply with the reduced respirable coal mine dust standards.

The final dust rule does not require underground anthracite coal mine operators using the full box, open breast, or slant breast mining method to use CPDMs to conduct sampling. Therefore, IC requirements associated with the CPDM under the final rule do not apply to them. These mines are small mines and their configuration would make using the CPDM difficult.

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.

Because mining conditions are constantly changing and to prevent the development of black lung disease, the quality of the air in a mine must be monitored on a routine basis to ensure that miners are not overexposed to respirable coal mine dust. Therefore, MSHA's standards require mine operators to sample occupations, positions, locations, and part 90 miners on a periodic basis. Sampling requirements under the final rule, including sampling time and frequency, production levels when samples are collected, and the number of miners and areas sampled, provide a more accurate representation of respirable coal mine dust concentrations to which miners are exposed. The health of miners will be adversely impacted if the sampling information is not collected and if corrective action, when required, is not taken to lower miners' exposure to respirable coal mine dust. Failing to collect information to identify where, when, by whom, and under what conditions specific respirable coal mine dust samples were collected and to identify what corrective action was taken would render the sampling results meaningless. Less frequent monitoring of miner's exposure to respirable coal mine dust and less collection of associated sampling information provides an inadequate indication of the dust conditions to which miners are normally exposed. This increases the likelihood that excessive dust conditions will go undetected. Consequently, the health of miners is adversely impacted if excessive dust concentrations are not detected and reduced.

Final §§ 70.201(i), 71.201(h), and 90.201(i) require mine operators to keep records of CPDM training and final § 72.700(c) requires mine operators to keep records of respirator training. Without the collection of this information, MSHA cannot verify that miners are properly trained before they need to use the CPDMs and respirators. In addition, without proper instruction on the use of CPDMs and respirators, miners will not be able to obtain the full protection that these devices are able to provide; thus, the health of miners will be jeopardized.

Records and signatures required under final § 75.362(a)(2), (g)(2), and (g)(3) ensure that the required on-shift examinations are made. The frequency of the IC requirements under the final rule is necessary to ensure that respirable dust control parameters specified in the mine's approved ventilation plan are maintained on every shift so that miners are not overexposed to respirable coal mine dust.

Final § 75.371(f) and (j) requires additional information regarding dust control measures to be included in the mine ventilation plan. This information assists miners in determining the types of dust controls being used, assists on-shift mine examiners in conducting adequate on-shift examinations of the dust controls, and allows operators, miners, and MSHA to observe and measure specific dust control parameters to better evaluate the effectiveness of dust control systems. In addition, if a respirable dust

standard were exceeded, the operator and MSHA could better evaluate and adjust, as necessary, dust controls to protect miners from exposure to excessive dust levels. Revisions to mine ventilation plans resulting from final § 75.371(f) and (j) are submitted under existing § 75.370 to ensure miners are protected by up-to-date mine ventilation plans.

Existing NIOSH regulations require mine operators to submit plans for periodic medical surveillance examinations for underground coal miners and rosters of current underground miners and their addresses. Under final § 72.100, underground coal mine operators must provide additional periodic examination information in their plans. Surface coal mine operators must also submit such plans and information, and rosters because surface coal miners are also at risk of developing black lung disease as a result of respirable coal mine dust exposure. Like underground miners, surface miners benefit from periodic medical examinations which provide information on their health status and enable them to take actions to prevent disease progression. The frequency of submitting this data is the same as required by NIOSH.

As further discussed in item 8, MSHA has carefully considered comments and the final rule adopts IC requirements that impose fewer burdens than those advocated by some commenters. MSHA has balanced overall needs to enhance worker protections while minimizing new burdens.

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.

The collection of information under the final rule is consistent with the guidelines in 5 CFR § 1320.5. Under final §§ 70.208, 70.209, 71.206, and 90.207, coal mine operators are required to sample and submit sampling information to MSHA on a quarterly basis, except that, under final §§ 70.206 and 70.207, during the first 18 months after the effective date of the rule (interim period), underground coal mine operators are required to sample DOs and DAs and submit sampling information on a bimonthly basis, which is the same frequency required under the existing standards.

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.

Background

The NPRM preamble solicited comments on the IC requirements in the proposed rule and provided an opportunity for comments to be sent directly to OMB (75 FR 66412, October 19, 2010). The initial comment period was scheduled to end on February 28, 2011 (75 FR 66412, October 19, 2010); however, MSHA extended the comment period three times. On January 14, 2011, MSHA extended the comment period from February 28, 2011 to May 2, 2011 (76 FR 2617). On May 4, 2011, MSHA again extended the comment period to May 31, 2011 (76 FR 25277). On May 27, 2011, MSHA extended the comment period to June 20, 2011 (76 FR 30878). Also, on March 8, 2011, MSHA published a *Federal Register* notice (76 FR 12648) requesting comment on information that was included in the preamble to the proposed rule and other issues that were raised during the public hearings. The notice requested comment on 25 specific issues and included two clarifications.

Record Length of Shift

Final § 70.201(e)

Final § 70.201(e) is the same as proposed § 70.201(g). It requires that records showing the length of each production shift for each MMU be made and retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the representative of miners, and submitted to the District Manager when requested in writing.

One commenter stated that production shift records should be retained for 12 months. A few commenters stated that the production shift records are unnecessary and excessively burdensome.

Under the final rule, mine operators need to know the length of the production shift to determine the equivalent concentration of respirable dust in the mine atmosphere. The information is necessary for MSHA to verify that an operator is accurately recording the actual production shift lengths for sampling purposes so that miners are not being overexposed. If no record were available indicating the shift length, it would be impossible for operators to determine, and MSHA to verify, the equivalent concentration of respirable dust in the mine atmosphere, which is imperative to ensure that miners are not overexposed.

The 6-month retention period gives MSHA adequate time to review the records. Although some commenters suggested longer retention periods for production records, the Agency does not believe that a longer period is justified in light of the record's purpose.

Final § 71.201(d)

Final § 71.201(d) is similar to final § 70.201(e). Final § 71.201(d), like the proposal, requires that records showing the length of each normal work shift for each DWP be made and retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the representative of miners and submitted to the District Manager when requested in writing.

One commenter stated that production shift records are unnecessary and excessively burdensome. Since this final standard is similar to final § 70.201(e), the response and rationale for final § 71.201(d) is the same as previously discussed for final § 70.201(e).

Submit Date and Time of Sampling

Final § 70.201(f)

Final § 70.201(f) is the same as proposed § 70.201(h). It requires that, upon request from the District Manager, the operator submit the date and time any respirable dust sampling required by this part will begin at least 48 hours prior to the scheduled sampling.

One commenter supported the proposal. Another commenter stated that the proposed requirement to submit information to MSHA 48 hours prior to the scheduled sampling creates a burden on MSHA. The 48-hour notification requirement does not create a burden on MSHA; rather, it provides MSHA with the opportunity to observe and monitor operator sampling to ensure that both operating conditions and sampling requirements are met.

One commenter suggested that less than 48 hours notice prior to the scheduled sampling should be allowed for legitimate reasons provided that the District Manager is notified of the change. MSHA will consider mitigating circumstances if conditions or activities outside the operator's control interfere with meeting the 48-hour requirement. Under those circumstances, however, the mine operator would need to notify the District Manager of any changes to the sampling schedule as soon as possible.

Final § 71.201(e)

Final § 71.201(e), like the proposal, requires that upon request from the District Manager, the operator must submit the date and time any respirable dust sampling required by this part will begin. It further requires that this information must be submitted at least 48 hours prior to scheduled sampling.

One commenter stated that the requirement creates an excessive burden on MSHA. Since final § 71.201(e) is identical to final § 70.201(f), the response and rationale for final § 71.201(e) is the same as previously discussed for final § 70.201(f).

Record Material Produced During Each Shift

Final § 70.201(g)

Final § 70.201(g) is the same as proposed § 70.201(i). It requires that to establish a normal production shift, the operator record the amount of run-of-mine material produced by each MMU during each shift to determine the average production for the most recent 30 production shifts, or for all the production shifts if fewer than 30 shifts of production data are available. It further requires that production records be retained for at least six months and be made available for inspection by authorized representatives of the Secretary and the miners' representative.

The final rule is consistent with The Dust Advisory Committee's recommendation that MSHA require the mine operator to maintain the appropriate production records. MSHA

currently relies on production information provided by the operator to determine the production level at which the mine ventilation plan should be evaluated. Mine operators must submit production data on a quarterly basis. The data are compiled for the entire mine, not each MMU. The quarterly reports provide information on the amount of clean coal produced, which is much lower than the tonnage of total run-of-mine material produced and, therefore, the quarterly report data are not useful for establishing what constitutes a “normal production shift” for each MMU for sampling purposes.

MSHA will use the production records to establish a normal production shift. If there were no records indicating typical production levels in the mine, MSHA would be unable to determine whether an operator's sampling of dust concentrations occurred during a shift that reasonably represented typical production levels and mining conditions.

One commenter stated that production records to establish a normal production shift would not be necessary once operators were required to sample with CPDMs every production shift, seven days per week, 52 weeks per year. The final rule, unlike the proposed rule, does not require continuous sampling. This commenter also stated that, under the revised definition of an MMU, it would be difficult to separate production between two sets of equipment because shuttle cars may pull coal from different continuous miners.

The MMU production is associated with the amount of material cut and loaded by the mining machine (continuous miner, loading machine, etc.). The mine operator must relate the production of material to the MMU. Which shuttle cars actually are pulling from a specific MMU does not determine the amount of material produced by each MMU. MMU-specific information is available through various methods and MSHA believes that the majority of mines currently track production on a per-MMU basis.

One commenter requested a 12-month record retention period. The 6-month period allows MSHA sufficient time to review the production records and, therefore, a longer retention period is not necessary. The 6-month time allows MSHA adequate time to be at the mine and have access to sampling data to determine if the samples are representative samples.

Revision of Dust Control Parameters in Mine Ventilation Plan

Final § 70.206(i)(2)

Final § 70.206(i)(2) provides that a citation for a violation of the applicable standard when bimonthly sampling is conducted shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation, and such changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

Several commenters stated that coal mine operators should not be required to commit to long-term ventilation plans for short-term issues involving respirable coal mine dust levels particularly when the mining conditions are not representative of the normal mining conditions under which ventilation plans are developed.

The final rule, like the existing standards, requires that each operator must continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings is exposed at or below the applicable respirable dust standard. Like the existing standards, the revisions to the dust control parameters that are required to be submitted to MSHA by the operator under the final rule are parameters that the operator believes will result in compliance with the applicable dust standard. If the operator encounters conditions where the existing dust control parameters are not effective in controlling the dust levels to within the applicable limit, the operator must adjust the dust control parameters as necessary to control the dust concentrations to at or below the applicable standard.

Several other commenters stated that submission of a change to the mine's approved ventilation plan is unfair and burdensome to mine operators. These commenters stated that the plan approval process places mine operators at a disadvantage because MSHA can shut down the MMU if the Agency does not get exactly what it wants and it is almost impossible for a mine operator to get an expedited hearing. They also stated that the proposal can result in considerable downtime for production because MSHA does not have the personnel to review and process revisions to the ventilation plans. They further stated that requiring different dust control parameters for each MMU creates a paperwork burden for mine operators and MSHA.

Mine ventilation plans are a long recognized means for addressing safety and health issues that are mine-specific. Individually tailored plans, with commonly accepted practices, are an effective method of regulating such complex matters as dust control. Existing § 75.370, regarding the submission and approval of mine ventilation plans, requires that each mine operator develop and follow a ventilation plan that is approved by MSHA and that is designed to control methane and respirable dust in the mine. Existing § 75.370 further requires that the plan must be suitable to the conditions and mining system at the mine. It establishes the procedures for submittal, review, and approval of the plan to ensure that the plan for each mine addresses the conditions in that mine.

Requiring revisions to the dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation provides the necessary latitude to address the diversity of mining conditions found in coal mines nationwide. Details must be shown in the plan and must be specific to the conditions at each MMU. MSHA is committed to the timely processing of plan revisions. The Agency believes that the plan approval system will not result in considerable downtime for operators while MSHA reviews the plans. Circumstances that require expedited action are handled by the District Manager

on a case-by-case basis. Generally, the District Manager is guided by whether the condition, if uncorrected, could result in a health or safety hazard or an imminent stoppage of production in the mine. In addition, a mine operator may take action necessary to abate an imminent danger or hazardous condition, or to safeguard persons and equipment. In order to take such action, the operator will need to determine the cause of the problem.

Final § 70.208(i)(2)

Final § 70.208(i)(2), which addresses quarterly sampling, is derived from proposed §§ 70.207(h) and 70.208(f)(3) and is the same as final § 70.206(i)(2) which addresses bimonthly sampling. It provides that a citation for a violation of the applicable standard shall be terminated by MSHA when the operator has submitted to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation, and such changes have been approved by the District Manager.

Several commenters stated that coal mine operators should not be required to commit to long-term ventilation plans for short-term issues involving respirable coal mine dust levels particularly when the mining conditions are not representative of the normal mining conditions under which ventilation plans are developed. Several other commenters stated that the requirement to submit a change to the mine's approved ventilation plan is unfair and burdensome to mine operators. These commenters stated that the plan approval process places mine operators at a disadvantage because MSHA can shut down the MMU if the Agency does not get exactly what it wants and it is almost impossible for a mine operator to get an expedited hearing. They also stated that the proposal can result in considerable downtime for production because MSHA does not have the personnel to review and process revisions to the ventilation plans. They further stated that requiring different dust control parameters for each MMU creates a paperwork burden for mine operators and MSHA.

Since final § 70.208(i)(2) is the same as final § 70.206(i)(2), the response and rationale for final § 71.208(i)(2) is the same as previously discussed for final § 70.206(i)(2).

Transmit Samples to MSHA

Final § 70.210(a)

Final § 70.210(a) requires the operator, if using a CMDPSU, to transmit within 24 hours after the end of the sampling shift all samples collected, including control filters, in containers provided by the manufacturer of the filter cassette to MSHA's Pittsburgh Respirable Dust Processing Laboratory, or to any other address designated by the District Manager.

One commenter opposed the proposed 24-hour transmission time frame. The commenter stated that the post office might not be open if the end of the sampling shift

is on a Saturday or the day before a federal holiday.

The 24-hour transmission time frame is not a new requirement. It has been required under existing § 70.209(a) since 1980. MSHA considers samples to be “transmitted” as long as they have been deposited into a secure mail receptacle provided by the U.S. Postal Service or other mail provider, such as FedEx. MSHA received no comments indicating that operators have actually encountered problems with the existing 24-hour transmission time frame requirement.

Final § 70.210(f)

Final § 70.210(f) is derived from proposed § 70.210(f). It is similar to final § 70.210(a), except that final § 70.210(f) applies to operators who use a CPDM to conduct sampling. Specifically, final § 70.210(f) requires that if using a CPDM, the person certified in sampling shall (1) validate, certify and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements of this part, or alter any sample data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

MSHA received a number of comments on the data file transmission time frame included in proposed § 70.210(f), which would have required the designated mine official to validate, certify and electronically transmit to MSHA, within 12 hours after the end of the last sampling shift of the work week, all daily sample and error data file information collected during the previous calendar week (Sunday through Saturday) and stored in the CPDM. Some commenters stated that validating, certifying, and transmitting sampling data electronically to MSHA, if using a CPDM, within 12 hours after the end of the last shift of the work week was too short a time frame. Another commenter was concerned that the 12-hour time limit after the end of the last shift sampled would impose unnecessary additional work hours on persons responsible for dust sampling activities since weekend work would be required almost every week. This commenter also stated that the 12-hour time frame was inconsistent with the 24-hour time frame allowed for the transmission of samples taken with a CMDPSU and noted that sampling data would still be timely and relevant if it were transmitted within 70 hours of collection.

MSHA evaluated the comments and concludes that a more appropriate transmission time frame would be within 24 hours after the end of each sampling shift. This 24-hour time frame is consistent with the existing sample data transmission requirement in existing § 70.209(a). It is also consistent with the requirement in final § 70.210(a) that operators transmit CMDPSU sampling data within 24-hours of the end of the sampling shift. Regardless of whether dust samples are collected with a CMDPSU or a CPDM, the person certified in sampling must complete the tasks associated with readying the

collected samples for transmission to MSHA within the uniform 24-hour time frame after completion of sampling. Transmitting the CPDM data in this time frame allows MSHA to assess compliance with the applicable standard in a timely manner. Additionally, the commenter's suggestion for a 70-hour transmission time frame would be too long because it would increase the likelihood of data loss.

Final § 90.208(f)

Final § 90.208(f), which is derived from proposed § 90.210(f), is the same as final § 70.210(f) except that it applies to the transmission of part 90 miner samples. Final § 90.208(f) requires that if using a CPDM, the person certified in sampling shall (1) validate, certify and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each part 90 miner; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements of this part, or alter any data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

A commenter on proposed § 90.210 expressed general support for the proposal and suggested that each operator be required to maintain CPDM data files for a minimum of 24 months, rather than for 12 months, as proposed. Further, the commenter suggested that the rule include a requirement that all CPDM data files be made available to all parties. MSHA believes that a 12-month retention period is reasonable in light of other requirements in the final rule. Specifically, under final § 90.209(b), the part 90 miner will receive a copy of the MSHA report to the mine operator that provides data on the respirable dust samples that were collected from the affected miner. Also, under final § 90.209(c), when a CPDM is used to sample, the part 90 miner will receive a paper record of the sample run within 12 hours of the end of each sampling shift. Because these provisions of the final rule ensure that the affected part 90 miner has ongoing access to sampling data, there is no need to require a mine operator to retain CPDM data files for more than 12 months. Moreover, the final rule does not include the commenter's suggestion that CPDM data files be made available to all parties. Special consideration must be given to part 90 miners' sampling data due to personal privacy implications associated with sampling such miners. Making the sampling data of part 90 miners available to all parties would be inappropriate and would jeopardize part 90 miners' privacy rights.

Post Sampling Data from MSHA

Final § 70.211(b)

Final § 70.211(b), like the proposal, requires the operator, upon receipt of the MSHA report, to post the data on respirable dust samples in the report on the mine bulletin board for at least 31 days. Posting the MSHA report is the same as posting the data in

the report.

One commenter indicated that the 31-day posting requirement allows interested parties sufficient opportunity to review the data. The commenter suggested that data on the DOs that are sampled, as well as the associated sampling results, should also be required to be posted. The commenter stated that such information would reveal which DOs are exposed to the most dust, and the mine's compliance record, and allow interested parties to use the information for such purposes as bidding on jobs.

Final § 70.211(b) does require posting of the occupation code and the dust concentration for each valid sample as suggested by the commenter because these data are included in the report that MSHA provides to the operator. Final § 70.211(b) is the same as the proposal.

Final § 71.208(b)

Final § 71.208(b) is changed from proposed § 71.209(b). It requires that, upon receipt, the operator must post on the mine bulletin board the data in the MSHA report for at least 31 days. Posting the MSHA report is the same as posting the data in the report.

The proposal would have required posting for 46 days. As explained in the preamble to the proposed rule, existing standards under parts 70 and 71 require operators to post sampling data for a time that is 50 percent of the specified sampling period (e.g., 31 days is 50 percent of the bimonthly sampling period specified in existing § 71.208(a)). Since proposed § 71.207 would have required operators to take DWP samples every calendar quarter, posting the sampling data for 46 days, which is approximately 50 percent of a quarterly sampling period, would have been consistent with existing posting requirements.

One commenter stated that the purpose and benefit of posting sampling data for 46 days was not apparent. Another commenter expressed general support for the proposed posting, stating that the specified data should be available to all interested parties at any time.

Upon consideration of these comments, MSHA has concluded that posting for the existing 31 days is adequate time for interested parties to review the data. The 31-day time period is consistent with the posting requirement under final § 70.211(b). MSHA agrees that the data required to be posted under final § 71.208(b) provides valuable sampling data. However, the final rule does not adopt the suggestion that the data should be permanently available to interested parties. The Agency believes that the 31-day posting period provides adequate opportunity for interested persons to review the information.

Post CPDM Sampling Data

Final § 70.211(c)

Final § 70.211(c) requires that if using a CPDM, the person certified in sampling shall, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of the sample run. This hard-copy record shall include the data entered when the sample run was first programmed, and the following: (1) The mine identification number; (2) The locations within the mine from which the samples were taken; (3) The concentration of respirable dust, expressed as an equivalent concentration reported and stored for each sample; (4) The sampling status conditions encountered for each sample; and (5) The shift length.

Final § 70.211(c), derived from proposed § 70.211(c), does not include the proposed requirement that would have required posting end-of-shift sampling results within 1 hour of the end of the shift. During the comment period, MSHA specifically requested comment on the proposed requirement for posting information on sampling results and miners' exposures on the mine bulletin board. Several commenters expressed concern that it was unrealistic to post end-of-shift sampling results within 1 hour of the end of the shift. One commenter pointed out that up to two hours may elapse between an oncoming crew's entrance into the mine and the ending shift's exit from the mine if the operator "hot-seats" the shift change. This commenter stated that this two-hour time span would require the hiring of additional health technicians to be able to post the samples within 1 hour. Another commenter stated it was too burdensome to require posting within 1 hour. Still another commenter saw no value in requiring sampling results to be posted within an hour of the end of the shift because the CPDM-wearer would have left the mine by the time the results were posted, and therefore would not know the results until the next scheduled shift; also miners on the oncoming shift would already be in the mine before the data were posted.

After reviewing the comments, MSHA concludes that the proposal will not increase protection from overexposure to respirable dust and, that requiring an operator to post the results from each sampling shift within 12 hours after the end of the sampling shift adequately protects miners. Posting the results from each sampling shift within 12 hours ensures that miners and their representatives are informed of the results in a timely manner. The 12-hour time frame is sufficient to have the results from the monitored shifts available for review prior to the miners returning to the same shift worked the next calendar day. Allowing a longer time period would prevent miners from being aware of the sampling results and being able to determine if additional actions need to be performed to prevent further exposure.

Another commenter recommended that sampling results be offered personally, including the option of having the results mailed to the miner who wore the CPDM during the sampling shift. In response to this comment, MSHA emphasizes that the final rule continues the Agency's occupational (area) sampling program. Because sampling under the final rule is not personal, the data collected is intended to benefit all miners who work in the area of the sample location. Accordingly, the final rule does not

adopt this recommendation.

Further, proposed § 70.211(c)(1)(viii), which would have required posting any other information required by the District Manager, is not included in the final rule. One commenter did not support proposed (c)(1)(viii). MSHA determined that allowing for the District Manager to require posting of additional information is unnecessary since all relevant information will be available on the paper record (Dust Data Card).

Report Status Changes That Affect CPDM Operational Readiness

Final § 70.212

Final § 70.212 does not include the proposed § 70.212(c) requirement which would have required the designated mine official to report status changes that affect the operational readiness of any CPDM within 24 hours after the status change had occurred. One commenter was concerned with the recordkeeping burden associated with proposed § 70.212(c).

Under the proposed rule, because operators were required to sample DOs in each MMU during every production shift, it was particularly important for MSHA to remain informed of circumstances affecting the operational readiness or availability of an operator's CPDMs needed for sampling. Examples of status changes affecting operational readiness of a CPDM included a malfunction or breakdown of a CPDM or failure to have a spare CPDM available for required sampling. However, the sampling requirement for each DO in each MMU in final § 70.208 requires sampling each calendar quarter on consecutive normal production shifts until 15 valid representative samples are taken, rather than the proposed requirement to sample every shift. Given that the operator is permitted to collect the required 15 consecutive samples at any time during the calendar quarter, the rationale for the proposal, to inform MSHA of circumstances that affect the operational readiness of the CPDM, is no longer applicable.

Final § 71.209

Final § 71.209 does not include the proposed § 71.210(c) requirement which would have required the designated mine official to report status changes that affect the operational readiness of any CPDM within 24 hours after the status change had occurred. One commenter was concerned with the recordkeeping burden associated with proposed § 71.210(c). After reviewing the commenter's concern, MSHA has determined that the proposed requirement is not necessary and, therefore, it is not included in the final rule.

Dust Control Plan

Final § 71.300(a)

Final § 71.300(a), like the proposal, provides for a 15-day requirement to submit a

written respirable dust control plan applicable to the DWP identified in the citation for MSHA approval. It is also the same as the existing regulatory requirement.

One commenter expressed concern that proposed § 71.300 was requiring another plan. MSHA is not requiring a new plan. The requirement to submit a respirable dust control plan after termination of a citation for violation of the dust standard has been in existence since 1980.

Notify Representative of Miners

Final § 71.300(a)(1)

Final § 71.300(a)(1), like the proposal, requires that the mine operator notify the representative of miners at least 5 days prior to submitting a proposed respirable dust control plan, or proposed revisions to an existing plan, to the District Manager for approval. It also requires that, if requested, the operator must provide a copy to the representative of miners at the time of the 5-day notification.

One commenter stated that, to allow for sufficient review and comment, the operator should be required to provide a copy of the respirable dust control plan to the miners' representative, without the representative having to request it, at least 10 days before the operator's submission to the District Manager.

MSHA agrees from experience that input from miners on proposed dust control measures in plans is important. However, providing a copy of the proposed plan, or revisions, to the miners' representative within the 5-day notification period, upon request, allows sufficient time and opportunity for the miners' representative to become familiar with the proposed plan or revisions and to discuss and resolve any issues prior to its submission to the District Manager for approval. In addition, the requirement is consistent with procedures for submitting plans in other MSHA standards.

IC 1219-0088 – Ventilation Plans, Tests, and Examinations in Underground Coal Mines

CPDM Performance Plan

Proposed §§ 70.206, 71.206, and 90.206

Proposed §§ 70.206, 71.206, and 90.206 would have required each operator to develop and submit for approval a CPDM Performance Plan prior to sampling with the CPDM. The Plan would have required specific information on CPDMs and approval procedures for the Plan. The final rule does not include a requirement for a CPDM Performance Plan.

MSHA received many comments on the proposed CPDM Performance Plan. The

majority of comments stated that another mine plan was not necessary. MSHA has determined that the CPDM Performance Plan would have been duplicative of many requirements in existing mine ventilation plans. In addition, the information that is needed to ensure the proper use of a CPDM is addressed by other provisions of this final rule, or will be incorporated into each operator's ventilation plan. MSHA has determined that the CPDM Performance Plan is unnecessary and that miners will be adequately protected by the requirements of a mine's ventilation plan and this final rule. Accordingly, the proposed CPDM Performance Plan is not included in this final rule.

IC 1219-0009 – Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines

Record of CPDM Training

Final § 70.201(i)

Final § 70.201(i) is derived from proposed § 70.201(k) and requires that an operator keep a record of CPDM training at the mine site for 24 months after completion of the training. In addition, it provides that an operator may keep the record elsewhere if it is immediately accessible from the mine site by electronic transmission. It further requires that, upon request by an authorized representative of the Secretary, the Secretary of HHS, or representative of miners, the operator must promptly provide access to any such training records. Final paragraphs (i)(1)–(3) require the record to include the date of training, the names of miners trained, and the subjects included in the training.

Final paragraph (i) makes a clarification by replacing the proposed term “2 years” with “24 months.” Final paragraphs (i)(1)–(3) are new; they were added to clarify that the record must contain sufficient information for an authorized representative of the Secretary, Secretary of HHS, or miners' representative to determine that the operator has provided CPDM training in accordance with requirements in final § 70.201(h). These are the minimum requirements needed to establish that the training has occurred.

One commenter stated that the proposed requirement to keep records is burdensome, but did not propose an alternative. Another commenter favored the proposed retention period. Record retention for the 24-month period is important so that MSHA can determine that the required initial and retraining has been provided.

Final § 71.201(h)

Final § 71.201(h), like the proposal, requires that an operator keep a record of the CPDM training at the mine site for 24 months after completion of the training. It also provides that an operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission. It further requires that upon request from an authorized representative of the Secretary, Secretary of HHS, or

representative of miners, the operator must promptly provide access to any such training records. Final paragraphs (h)(1)–(3) require the record to include the date of training, the names of miners trained, and the subjects included in the training.

Paragraph (h) makes a clarification by replacing the proposed term “2 years” with “24 months.” Final paragraphs (h)(1)–(3) are new; they clarify that the record must contain sufficient information for an authorized representative of the Secretary, the Secretary of HHS, or miners’ representative to determine that the operator has provided CPDM training in accordance with requirements in final § 71.201(g). Like final § 70.201(i), these are the bare minimum requirements needed to establish that the training has occurred. The record requirements of final § 71.201(h) are identical to final § 70.201(i).

One commenter stated that the proposed recordkeeping requirement is too burdensome. Since final § 71.201(h) is the same as final § 70.201(i), the response and rationale for final § 71.201(h) is the same as previously discussed for final § 70.201(i).

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

MSHA will provide no payments or gifts to the respondents identified in this collection.

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

The IC’s covered by this ICR do not provide an express assurance of confidentiality. As a practical matter, a request for MSHA records containing mine operator responses would be processed in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 522) and its attendant DOL regulations, 29 CFR part 70.

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

There are no questions of a sensitive nature.

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

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.

Provisions of the final rule that will impact the existing MSHA collection requirements in OMB 1219-0011

A. Abatement Sampling

Record and Certify Corrective Actions - Final §§ 70.206(h)(3), 70.207(g)(3), 70.208(h)(3), 70.209(f)(3), 71.206(k)(3), and 90.207(f)(3)

On implementation of the corrective actions, a record of the corrective actions must be made and certified under final §§ 70.206(h)(3), 70.207(g)(3), 70.208(h)(3), 70.209(f)(3) for underground coal mine operators; final § 71.206(k)(3) for surface coal mine operators; and final § 90.207(f)(3) for part 90 miners. MSHA estimates that, on average, it takes 12 minutes (0.2 hrs.) to make a record of corrective actions and certify the record. MSHA assumes that a supervisory person, earning \$84.69 per hour in an underground coal mine and \$71.18 per hour in a surface coal mine, will make the record. In addition, MSHA assumes that a mine foreman or equivalent mine official that certifies the record also earns a supervisory hourly wage rate. First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

Burden Hours
675 records x 0.2 hrs. = 135 hours
Hour Burden Costs
135 hours x \$84.69 wage rate = \$11,433

Underground Coal Mine Operators – Year Two

Burden Hours
467 records x 0.2 hrs. = 93 hours
Hour Burden Costs
93 hours x \$84.69 wage rate = \$7,876

Underground Coal Mine Operators – Year Three

Burden Hours
771 records x 0.2 hrs. = 154 hours
Hour Burden Costs
154 hours x \$84.69 wage rate = \$13,042

Surface Coal Mine Operators – Year One

Burden Hours

42 records x 0.2 hrs. = 8 hours

Hour Burden Costs

8 hours x \$71.18 wage rate = \$569

Surface Coal Mine Operators – Year Two

Burden Hours

25 records x 0.2 hrs. = 5 hours

Hour Burden Costs

5 hours x \$71.18 wage rate = \$356

Surface Coal Mine Operators – Year Three

Burden Hours

32 records x 0.2 hrs. = 6 hours

Hour Burden Costs

6 hours x \$71.18 wage rate = \$427

Complete and Sign Dust Data Card and Send with Sample to MSHA -
Final §§ 70.210(a), (c), and (f), 71.207(a), (c), and (f), and 90.208(a), (c),
and (f)

Under final § 70.210(a), (c), and (f) for underground coal mines; final § 71.207(a), (c), and (f) for surface coal mines; and § 90.208(a), (c), and (f) for part 90 miners, operators must complete and sign dust data cards and submit abatement samples, or sample data file information when a CPDM is used, and the dust data cards to MSHA. Each violation requires five abatement samples. The burdens for final §§ 70.210(c) and 90.208(c) include the burdens for final §§ 70.205(b)(2) and 90.205(b)(2) since MSHA assumes that any notations required to be made on the dust data card can be made at the same time. For the same reason, the burden for final § 71.207(c) includes the burdens for final §§ 71.205(b)(2) and 71.206(e).

In the first year that the final rule is in effect, underground and surface coal mine operators must conduct abatement sampling with the CMDPSU. In the first half of the second year that the final rule is in effect, underground coal mine and surface coal mine operators must conduct abatement sampling with the CMDPSU. In the remaining half of the second year that the final rule is in effect, underground coal mine operators must conduct sampling of DOs and ODOs with

the CPDM and sampling of DAs with the CMDPSU unless the operator notifies the DM that only a CPDM will be used and surface coal mines may conduct abatement sampling with the CMDPSU unless the operator notifies the DM that only a CPDM will be used. MSHA assumes that in the second half of the second year that the rule is in effect, underground coal mine operators will conduct abatement sampling using CPDMs and surface coal mine operators will conduct abatement sampling using CMDPSUs. In the third year that the final rule is in effect, and for every year thereafter, underground coal mines will conduct abatement sampling with the CPDM and surface coal mines will conduct abatement sampling with the CMDPSU.

Submitting Abatement Samples When Using a CMDPSU

When abatement sampling is conducted with the CMDPSU, the sample must be mailed with a control filter and, completed dust card, to MSHA and the costs for submitting a sample. MSHA estimates that the person completing the dust data card is a certified technician earning \$33.23 per hour in an underground coal mine and \$28.13 in a surface coal mine. MSHA estimates that, on average, a certified dust technician will take 6 minutes (0.1 hours) to complete and send the dust data card with the sample to MSHA. MSHA estimates that a certified person, earning \$84.69 per hour in an underground mine and \$71.18 per hour in a surface mine, takes 1.5 minutes (0.025 hours) to review and sign the dust data card, and include that person's MSHA Individual Identification Number (MIIN).

Submitting Abatement Samples When Using the CPDM

When conducting abatement sampling with the CPDM, the sampling data file information is transmitted electronically and no mailing occurs. MSHA estimates that validating, certifying, and uploading the abatement sampling data from the CPDM to a computer and then transmitting the data electronically to MSHA takes a designated mine official, earning a supervisor's hourly wage of \$84.69, 6 minutes (0.1 hours). First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

<u>Burden Hours</u>	
3,375 data cards x 0.1 hrs.	= 338 hours
3,375 data cards x 0.025 hrs.	= <u>84 hours</u>
Total burden hours	= 422 hours
<u>Hour Burden Costs</u>	
338 hours x \$33.23 wage rate	= \$11,232
84 hours x \$84.69 wage rate	= <u>\$ 7,114</u>
Total hour burden costs	= \$18,346

First Half of Second Year

In the first half of the second year, sampling will be conducted like it was conducted in the first year.

Underground Coal Mine Operators – First half of Year Two

<u>Burden Hours</u>	
1,175 data cards x 0.1 hrs.	= 118 hours
1,175 data cards x 0.025 hrs.	= <u>29 hours</u>
Total burden hours	= 147 hours
<u>Hour Burden Costs</u>	
118 hours x \$33.23 wage rate	= \$ 3,921
29 hours x \$84.69 wage rate	= <u>\$ 2,459</u>
Total hour burden costs	= \$6,380

Remaining Half of Second Year

In the second half of the second year, and for every year thereafter, underground coal operators will use the CPDM to conduct abatement sampling.

Underground Coal Mine Operators – Second half of Year Two

<u>Burden Hours</u>	
1,160 data cards x 0.1 hrs.	= 116 hours
<u>Hour Burden Costs</u>	
116 hours x \$84.69 wage rate	= \$9,824

Underground Coal Mine Operators – Year Three

<u>Burden Hours</u>	
3,855 data cards x 0.1 hrs.	= 386 hours

Hour Burden Costs

386 hours x \$84.69 wage rate = \$32,690

Surface Coal Mine Operators – Year One

Burden Hours

210 data cards x 0.1 hrs. = 21 hours

210 data cards x 0.025 hrs. = 5 hours

Total burden hours = 26 hours

Hour Burden Costs

21 hours x \$28.13 wage rate = \$591

5 hours x \$71.18 wage rate = \$ 356

Total hour burden cost = \$947

Surface Coal Mine Operators – Year Two

Burden Hours

125 data cards x 0.1 hrs. = 13 hours

125 data cards x 0.025 hrs. = 3 hours

Total burden hours = 16 hours

Hour Burden Costs

13 hours x \$28.13 wage rate = \$ 366

3 hours x \$71.18 wage rate = \$ 214

Total hour burden cost = \$580

Surface Coal Mine Operators – Year Three

Burden Hours

160 data cards x 0.1 hrs. = 16 hours

160 data cards x 0.025 hrs. = 4 hours

Total burden hours = 20 hours

Hour Burden Costs

16 hours x \$28.13 wage rate = \$450

4 hours x \$71.18 wage rate = \$ 285

Total hour burden cost = \$735

Posting Sampling Data from the MSHA Report, Posting a Paper Record (Dust Data Card), Providing MSHA Report and the Paper Record (Dust Data Card) to the Part 90 Miner – Final §§ 70.211(b) and (c), 71.208(b) and (c), and 90.209(b) and (c)

Operators are required to post sampling data from the MSHA report and the paper record (Dust Data Card) under final § 70.211(b) and (c), respectively, for underground mines, and under final § 71.208(b) and (c), respectively, for surface coal mines. (The operator can post the MSHA report since the report contains the sampling data.) Under final § 90.209(b) and (c), operators must provide a copy of the MSHA report and the paper record (Dust Data Card) to the affected part 90 miner. For purposes of this cost analysis, MSHA assumes that it takes the same amount of time to provide a copy of the sampling data to the part 90 miner as it does to post the sampling data from the MSHA report on the mine bulletin board. MSHA also assumes that posting the data from the MSHA report under final § 70.211(b) and the Dust Data Card of the sample run under final § 70.211(c) can be done at the same time. Similarly, providing the part 90 miner with the MSHA report under final § 90.209(b) and the Dust Data Card of the sample run under final § 90.209(c) can be done at the same time. On average, MSHA estimates that a clerical employee, earning \$28.67 per hour in an underground mine and \$23.91 in a surface mine, takes 0.1 hours (6 minutes) to copy and post the sampling data. MSHA's current practice is to transmit the MSHA reports to the operator in a group, so the number of times to post or provide results to the part 90 miner equates to the number of citations issued. First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

Burden Hours

675 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 68 hours

Hour Burden Costs

114 hours x \$28.67 wage rate = \$1,950

Underground Coal Mine Operators – Year Two

Burden Hours

467 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 47 hours

Hour Burden Costs

47 hours x \$28.67 wage rate = \$1,348

Underground Coal Mine Operators – Year Three

Burden Hours

771 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 77 hours

Hour Burden Costs

77 hours x \$28.67 wage rate = \$2,208

Surface Coal Mine Operators – Year One

Burden Hours

42 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 4 hours

Hour Burden Costs

4 hours x \$23.91 wage rate = \$96

Surface Coal Mine Operators – Year Two

Burden Hours

25 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 3 hours

Hour Burden Costs

3 hours x \$23.91 wage rate = \$72

Surface Coal Mine Operators – Year Three

Burden Hours

32 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 3 hours

Hour Burden Costs

3 hours x \$23.91 wage rate = \$72

B. Meeting or Exceeding the ECV When Conducting Compliance Sampling

Record and Certify Corrective Actions - Final §§ 70.206(e)(3), 70.207(d)(3), 70.208(e)(3), 70.209(c)(3), and 90.207(c)(3)

On implementation of the corrective actions, a record of the corrective actions must be made and certified under final §§ 70.206(e)(3), 70.207(d)(3), 70.208(e)(3), 70.209(c)(3) for underground coal operators; and final § 90.207(c)(3) for part 90 miners, when 1 out of 5 valid, representative samples in a

sampling period, or 1 or 2 out of 15 valid, representative samples in a sampling period, meets or exceeds the applicable ECV. MSHA estimates that, on average, it takes 12 minutes (0.2 hrs.) to make a record of corrective actions and certify the record. MSHA assumes that a supervisory person, earning \$84.69 per hour in an underground coal mine, will make the record. In addition, MSHA assumes that a mine foreman or equivalent mine official that certifies the record also earns a supervisory hourly wage rate. First, second and third year burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Mine Operators – Year One

Burden Hours

1,972 records x 0.2 hrs. = 395 hours

Hour Burden Costs

395 hours x \$84.69 wage rate = \$33,453

Underground Coal Mine Operators –Year Two

Burden Hours

2,849 records x 0.2 hrs. = 570 hours

Hour Burden Costs

570 hours x \$84.69 wage rate = \$48,273

Underground Coal Mine Operators – Year Three

Burden Hours

4,418 records x 0.2 hrs. = 884 hrs

Hour Burden Costs

884 hours x \$84.69 wage rate = \$74,866

C. Record of Production

Recording Production in Underground Coal Mines – Final § 70.201(g)

Final § 70.201(g) requires the operator to record the amount of run-of-mine material produced by each MMU during each shift. Production data are used to determine the average production for the most recent 30 production shifts or for the most recent production shifts if fewer than 30 shifts of production data are available. The operator must retain production records for at least six months and make them available for inspection by authorized representatives of the Secretary and the miners' representative.

Some mines already record the material produced per shift; however, most do not. Since nearly all mines with 1-19 employees operate 1 shift per day, MSHA estimates that the 81 MMUs in underground coal mines with 1-19 employees operate 1 shift per day (or 81 shifts per day). MSHA estimates that material produced is not recorded for 90 percent of these shifts, or approximately 73 shifts per day (81 shifts x 90 percent). In addition, MSHA estimates that, on average, the 708 MMUs in underground coal mines with 20-500 employees operate 2 shifts per day (or 1,416 shifts per day). MSHA estimates that material produced is not recorded for 75 percent of these shifts operating each day or 1,062 shifts (1,416 shifts x 75 percent). Finally, all mines with 501+ employees are assumed to already record the amount of material produced. MSHA estimates that the annual number of workdays is: 200 days in mines with 1-19 employees; and 300 days in mines with 20-500 employees. MSHA assumes that a supervisor, earning \$84.69 an hour, takes 5 minutes (0.0833 hours) to record the material produced on each shift. The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

333,200 shifts x 0.0833 hrs. = 27,756 hours

Hour Burden Costs

27,756 hours x \$84.69 wage rate = \$2,350,656

D. Record of Shift Length

Record the Length of the Shift – Sampling; General and Technical Requirements – Final §§ 70.201(e), 71.201(d), and 90.201(f)

Final §§ 70.201(e), 71.201(d) and 90.201(f) require the operator to make a record showing the length of each shift for each MMU, DWP and part 90 miner,

to retain the records for at least six months, and to make the records available for inspection by authorized representatives of the Secretary and, except in the case of part 90 miners, by the miners' representative.

For underground coal operators, final §§ 70.211(c) and 90.209(c) require that operators print, sign and post for each MMU or provide to each part 90 miner the shift length and other information from the Dust Data Card regarding CPDM sampling results. MSHA assumes that records of the shift length required by final §§ 70.201(e) and 90.201(f) are made at the same time as the recording of the shift length and other information for CPDM sampling results required by final §§ 70.211(c) and 90.209(c). The burdens to record shift length required by final §§ 70.201(e) and 90.201(f) are accounted for in the burdens for final §§ 70.211(c) and 90.209(c), respectively.

The requirement under final § 71.201(d) to record shift length for DWPs involves a new cost for underground coal operators who have surface operations and for surface coal operators.

For underground coal mines, MSHA estimates that it takes a miner, earning \$36.92 an hour, 1 minute (0.0167 hours) to record shift length for a DWP. MSHA estimates that the number of DWPs are: 13 DWPs in mines with 1-19 employees; 47 DWPs in mines with 20-500 employees; and 29 DWPs in mines with 501+ employees. MSHA estimates that, on average, the average number of shifts per day is 1 in mines with 1-19 employees, and 2 in mines with 20 or more employees. Also, MSHA estimates that the average number of workdays per year is: 200 in mines with 1-19 employees and 300 in mines with 20-500 employees, 350 in mines with 501+ employees.

For surface coal mines, MSHA estimates that it takes a miner, earning \$31.26 an hour, 1 minute (0.0167 hours) to record shift length for a DWP. MSHA estimates that the number of DWPs are: 1,107 DWPs in mines with 1-19 employees; 1,759 DWPs in mines with 20-500 employees; and 64 DWPs in mines with 501+ employees. MSHA estimates that the average number of shifts per day is: 1 in mines with 1-19 employees, 2 in mines with 20 or more employees. Also, MSHA estimates that the average number of workdays per year is: 250 in mines with 1-19 employees; 300 in mines with 20-500 employees, and 350 in mines with 501+ employees. The annual burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

51,100 DWP records x 0.0167 hrs. = 853 hours

Hour Burden Costs

853 hours x \$36.92 wage rate = \$31,493

Surface Coal Mine Operators

Burden Hours

1,376,950 DWP records x 0.0167 hrs. = 22,995
hours

Hour Burden Costs

22,995 hours x \$31.26 wage rate = \$718,824

E. CMDPSU Compliance Sampling

Listing the DWPs – Final § 71.206(d)

Final § 71.206(d) requires operators to provide the MSHA district manager with a list identifying the specific work positions where DWP samples will be collected. MSHA estimates that it takes a supervisor 12 minutes (0.2 hours) to prepare the list. A supervisor's hourly wage rate is \$84.69 at underground mines and \$71.18 at surface mines. MSHA estimates that a clerical employee takes an additional 12 minutes (0.2 hours) to prepare and send it to MSHA. A clerical employee's hourly wage rate is \$28.67 at underground mines and \$23.91 at surface mines.

MSHA estimates that the number of underground coal mines with surface areas that have DWPs are: 3 mines with 1-19 employees; 21 mines with 20-500 employees; and 8 mines with 501+ employees. MSHA estimates that the number of surface coal mines with DWPs is: 620 mines with 1-19 employees; 491 mines with 20-500 employees; and 12 mines with 501+ employees. The first year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

32 mines x 0.2 hrs. = 6 hours

32 mines x 0.2 hrs. = 6 hours

Total burden hours = 12 hours

Hour Burden Costs

6 hours x \$28.67 wage rate = \$172

6 hours x \$84.69 wage rate = \$508

Total hour burden costs = \$680

Surface Coal Mine Operators

Burden Hours

1,123 mines x 0.2 hrs. = 225 hours

1,123 mines x 0.2 hrs. = 225 hours

Total burden hours = 450 hours

Hour Burden Costs

225 hours x \$23.91 wage rate = \$ 5,380

225 hours x \$71.18 wage rate = \$16,016

Total hour burden cost = \$21,396

Also, MSHA assumes that 10 percent of mines each year (including the first year) will update their lists. The annual burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

4 mines x 0.2 hrs. = 1 hour

4 mines x 0.2 hrs. = 1 hour

Total burden hours = 2 hours

Hour Burden Costs

1 hour x \$28.67 wage rate = \$29

1 hour x \$84.69 wage rate = \$85

Total hour burden costs = \$114

Surface Coal Mine Operators

Burden Hours

112 mines x 0.2 hrs. = 22 hours

112 mines x 0.2 hrs. = 22 hours

Total burden hours = 44 hours

Hour Burden Costs

22 hours x \$23.91 wage rate = \$ 526

22 hours x \$71.18 wage rate = \$1,566

Total hour burden cost = \$2,092

Transmitting the Samples to MSHA – Final §§ 70.210, 71.207 and 90.208

Final §§ 70.210, 71.207 and 90.208 require each sample to be transmitted to MSHA with a completed dust data card. The dust data card is provided by the manufacturer with each filter cassette. Under §§ 70.210(c), 71.207(c) and 90.208(c), the person collecting the sample writes on each Dust Data Card information on the conditions when the sample was collected. Normally these tasks are performed by a certified dust technician earning \$33.23 per hour in an underground coal mine and \$28.13 per hour in a surface coal mine. On average, MSHA estimates that a certified dust technician takes 6 minutes (0.1 hours) to prepare and send one sample with the dust data card to MSHA.

After the dust data card has been filled out, a certified person signs the card and includes that person’s MSHA Individual Identification Number (MIIN) on the card. On average, MSHA estimates that a certified person (normally the mine safety inspector or an equivalent person, such as a supervisor) takes 1.5 minutes (0.025 hours) to complete and sign the dust data card. MSHA also estimates that a supervisor’s hourly wage rate is \$84.69 in an underground mine and \$71.18 in a surface mine. The first, second and third year burden hours and hour burden costs for underground coal mines and the annual burden hours and hour burden costs for surface mines are shown below. (It should be noted that burden decreases will eventually apply to the control number that includes the IC requirement; however, for purposes of this ICR and to enhance transparency with the final rule, burden decreases in this Supporting Statement for the overall request will be used to offset burden increases that are also within this overall request.)

Underground Coal Mine Operators – Year One

<u>Burden Hours</u>	
17,072 data cards x 0.1 hrs.	= 1,707 hrs
17,072 data cards x 0.025 hrs.	= <u>427 hrs</u>
Total burden hours	= 2,134 hrs
<u>Hour Burden Costs</u>	
1,707 hours x \$33.23 wage rate	= \$56,724
427 hours x \$84.69 wage rate	= <u>\$36,163</u>
Total hour burden costs	= \$92,887

Underground Coal Mine Operators –Year Two

Burden Hours Saved

(2,210) data cards x 0.1 hrs. = (221) hours

(2,210) data cards x 0.025 hrs. = (55) hrs

Total burden hours saved = (276) hrs

Hour Burden Cost Savings

(221) hours x \$33.23 wage rate = \$ (7,344)

(55) hours x \$84.69 wage rate = \$ (4,658)

Total hour burden cost savings = \$ (12,002)

Underground Coal Mine Operators – Year Three

Burden Hours Saved

(21,492) data cards x 0.1 hrs. = (2,149) hrs

(21,492) data cards x 0.025 hrs. = (537) hrs

Total burden hours saved = (2,686) hrs

Hour Burden Cost Savings

(2,149) hours x \$33.23 wage rate = \$ (71,411)

(537) hours x \$84.69 wage rate = \$ (45,479)

Total hour burden cost savings = (\$116,890)

Surface Coal Mine Operators – Annual

Burden Hours

9,878 data cards x 0.1 hrs. = 988 hours

9,878 data cards x 0.025 hrs. = 247 hours

Total burden hours = 1,235 hours

Hour Burden Costs

988 hours x \$28.13 wage rate = \$27,792

247 hours x \$71.18 wage rate = \$17,581

Total hour burden cost = \$45,373

Posting Sampling Data from the MSHA Report and Providing MSHA Report to the Part 90 Miner – Final §§ 70.211(b), 71.208(b), and 90.209(b)

After processing the CMDPSU samples, MSHA sends a report that contains the sampling data to the operator. Upon receiving the report, final

§§ 70.211(b) and 71.208(b) require operators to post the sampling data on the mine bulletin board. (The operator can post the MSHA report since the report contains the sampling data.) Final § 90.209(b) requires operators to provide part 90 miners with a copy of the report. For purposes of this cost analysis, MSHA assumes that it takes the same amount of time to provide a copy of the report to the part 90 miner as it does to post the data on the mine bulletin board. On average, MSHA estimates that a clerical employee takes 0.1 hours (6 minutes) to copy and post the data. The hourly wage rate for a clerical employee is \$28.67 in an underground mine and \$23.91 in a surface mine. The first, second and third year burden hours and hour burden costs for underground coal mines and the annual burden hours and hour burden costs for surface mines are shown below.

Underground Coal Mine Operators – Year One

Burden Hours

17,072 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 1,707 hours

Hour Burden Costs

1,707 hours x \$28.67 wage rate = \$48,940

Underground Coal Mine Operators –Year Two

Burden Hours Saved

(2,210) postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = (221) hours

Hour Burden Cost Savings

(221) hours x \$28.67 wage rate = (\$6,336)

Underground Coal Mine Operators – Year Three

Burden Hours Saved

(21,492) postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = (2,149) hours

Hour Burden Cost Savings

(2,149) hours x \$28.67 wage rate = (\$61,612)

Surface Coal Mine Operators – Annual

Burden Hours

9,878 postings of sampling data or provide data to part 90 miner
x 0.1 hrs. = 988 hours

Hour Burden Costs

988 hours x \$23.91 wage rate = \$23,623

F. CPDM Compliance Sampling Used at Underground Mines

Validate, Certify, and Transmit CPDM Sampling Data to MSHA - Final §§ 70.210 and 90.208

Final §§ 70.210(f) and 90.208(f) apply when operators use CPDMs to sample. These standards require that within 24 hours after the end of each sampling shift, a person certified in sampling must validate, certify and transmit to MSHA the sample data file information collected and stored in the CPDM.

MSHA estimates that validating, certifying, and uploading the CPDM data to a computer and then transmitting it electronically to MSHA takes a person certified in sampling, earning \$33.23 an hour, 6 minutes (0.1 hours). The annual number of CPDM samples estimated in the REA can be used to derive the burden hours and burden costs for this requirement because every sample must be validated, certified and transmitted to MSHA within 24 hours after the end of each sampling shift by a certified person. The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Operators

Burden Hours

290,520 samples x 0.1 hrs. = 29,052 hours

Hour Burden Costs

29,052 hours x \$33.23 wage rate = \$965,398

Post Sampling Data from MSHA Report; Print, Sign and Post CPDM Sampling Dust Data Card; and Provide MSHA Report and Paper Record (Dust Data Card) to Part 90 Miners – Final §§ 70.211 and 90.209

Final § 70.211(b) requires the operator to post sampling data from MSHA reports on the mine bulletin board and final § 90.209(b) requires the operator to provide copies of the MSHA report to part 90 miners. Under final § 70.211(b),

the operator can post the MSHA report since the report contains the sampling data.

Final §§ 70.211(c) and 90.209(c) apply to operators who use a CPDM. Final § 70.211(c) requires the person certified in sampling to print, sign and post on the mine bulletin board within 12 hours after the end of each sampling shift a paper record (Dust Data Card) of the sample run on the mine bulletin board within 12 hours after the end of each sampling shift. Final § 90.209(c) requires the person certified in sampling to print, sign and provide the paper record (Dust Data Card) of the sample run to each the part 90 miner within one hour after the start of the part 90 miner's next work shift.

The paper record must include: 1) the mine identification number; 2) the location within the mine from which the sample was taken; 3) the concentration of respirable dust, expressed as an equivalent concentration in mg/m^3 reported and stored for each sample; 4) sampling status conditions encountered for each sample; 5) the shift length; and 6) for the part 90 miner, the miner's MSHA Individual Identification number. This information is included on the data card that can be printed from the CPDM. MSHA expects that a copy of the printout will be posted, or provided to the part 90 miner, to satisfy the requirements of those provisions.

MSHA assumes that posting the data from the MSHA report under final § 70.211(b) and posting the Dust Data Card of the sample run under final § 70.211(c) can be done at the same time. Similarly, providing the part 90 miner with the MSHA report under final § 90.209(b) and the Dust Data Card of the sample run under final § 90.209(c) can be done at the same time. For purposes of this cost analysis, MSHA assumes that it takes the same amount of time to provide a copy of the MSHA report and Dust Data Card to the part 90 miner as it does to post the MSHA report on the mine bulletin board.

Final § 70.201(e) requires the operator to make a record showing the length of each production shift for each MMU, retain the records for at least six months and make them available for inspection by authorized representatives of the Secretary and the miners' representative and submitted to the District Manager when requested in writing. Final § 90.201(f) requires the operator to make a record showing the length of each shift for each part 90 miner, retain the records for at least six months, and make them available for inspection by authorized representatives of the Secretary, and submit them to the District Manager when requested in writing.

MSHA assumes that operators will record the shift length in a book to comply with final §§ 70.201(e) and 90.201(f) when they print out the Dust Data Card. The burdens to record shift length required by final §§ 70.201(e) and 90.201(f) are accounted for in the burdens for final §§ 70.211(c) and 90.209(c), respectively.

The estimates of the number of CPDM samples per year are used to derive the burden hours and hour burden costs to print, sign and post the paper record (Dust Data Card) of the sampling data, and provide the sampling data to the part 90 miner. MSHA estimates that a person certified in sampling, earning \$33.23 an hour, takes 10 minutes (0.1667 hours) to print, sign and post the CPDM Dust Data Card or provide the sampling data to the part 90 miner. The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Operators

Burden Hours

290,520 postings of sampling data or provide data to part 90 miner
x 0.1667 hrs. = 48,430 hours

Hour Burden Costs

48,430 hours x \$33.23 wage rate = \$1,609,329

G. CPDM Compliance Sampling for Part 90 Miners at Surface Coal Mines

Validate, Certify, and Transmit CPDM Sampling Data to MSHA – Final §§ 71.207(f) and 90.208(f)

Final §§ 71.207(f) and 90.208(f) require that, within 24 hours after the end of each sampling shift, a person certified in sampling must validate, certify and transmit electronically to MSHA the sampling data file information collected and stored in the CPDM, including status conditions encountered when sampling the part 90 miner. Since surface coal mine operators are required to use the CPDM only for part 90 miner sampling, the burden for final § 71.207(f) is accounted for in the burden for final § 90.208(f) below. MSHA estimates that validating, certifying, and uploading the CPDM data from a CPDM to a computer, and then transmitting it electronically to MSHA takes a certified person, earning \$28.13 per hour, 6 minutes (0.1 hours). Since a new CPDM filter must be used with every part 90 miner sample, the estimate of the number of times that a certified person must validate, certify and transmit part 90 miner sampling data from a CPDM to MSHA will be: none in the first year that the final rule is effective; 10 times in the second year that the final year is effective; and 20 times in the third year, and every year thereafter, that the final rule is effective. The first, second and third year burden hours and hour burden costs for surface coal mines are shown below.

First Year of Final Rule

There are no burden hours or hour burden costs for validating, certifying and transmitting sampling data from CPDMs used to perform part 90 miner sampling at surface coal mines in the first year that the rule becomes effective.

Second Year of Final Rule

The second year burden hours and hour burden costs for surface coal mines are shown below.

<u>Burden Hours</u>	
2,000 samples x 0.1 hrs.	= 200 hours
<u>Hour Burden Costs</u>	
200 hours x \$28.13 wage rate	= \$5,626

Third Year of Final Rule and Every Year Thereafter

The third year burden hours and hour burden costs for surface coal mines are shown below.

<u>Burden Hours</u>	
4,000 samples x 0.1 hrs.	= 400 hours
<u>Hour Burden Costs</u>	
400 hours x \$28.13 wage rate	= \$11,252

Sign and Provide CPDM Sampling Data to Part 90 Miners – Final § 90.209

Final § 90.209(b) requires the operator to provide copies of the MSHA reports of sampling data received by the operator under final § 90.209(a) to part 90 miners. In addition, final § 90.209(c) requires that, when using a CPDM, operators must print, sign, and provide each part 90 miner a paper record (Dust Data Card) of the sampling run to part 90 miners. The sample run includes: 1) the mine identification number; the location within the mine from which the samples were taken; 2) the location within the mine from which the samples were taken; 3) the concentration of respirable dust, expressed as an equivalent concentration in milligrams per cubic meter of air reported and stored for each sample; 4) the sampling status conditions encountered for each sample; 5) the shift length; and 6) the part 90 miner's MSHA Individual Identification Number (MIIN). This information is included on the CPDM Dust Data Card. MSHA assumes that providing the part 90 miner with the MSHA report under final § 90.209(b) and the Dust Data Card of the sample run under final § 90.209(c) can be done at the same time.

Final § 90.201(f) requires the operator make a record showing the length of each shift for each part 90 miner, retain the records for at least six months, make them available for inspection by authorized representatives of the Secretary, and submit them to the MSHA District Manager when requested in writing. MSHA assumes that after recording the shift length on the Dust Data Card under final § 90.209(c), the operator will record the shift length in a book to comply with § 90.201(f). The burden to record shift length for part 90 miners required by final § 90.201(f) is accounted for in the burden for final § 90.209(c) below.

A new CPDM filter is used every time a CPDM is used to sample and a Dust Data Card with the information noted above, with the exception of the shift length, is generated after the sample is taken. Thus, MSHA estimates the number of times Dust Data Cards will be provided to part 90 miners is equal to the number of CPDM filters used. Sampling data under final § 90.209(b) and (c) can be provided to the part 90 miner at the same time. MSHA estimates that a certified person, earning \$28.13 per hour, takes 3 minutes (0.05 hours) to perform the functions described above and make a copy of the sampling data. The first, second and third year burden hours and hour burden costs for surface coal mines are shown below.

First Year of Final Rule

There are no burden hours or hour burden costs to print, sign and provide to part 90 miners the sampling data from CPDMs used to perform part 90 miner sampling at surface coal mines in the first year that the rule is in effect.

Second Year of Final Rule

The second year burden hours and hour burden costs for surface coal mines are shown below.

Burden Hours

2,000 sampling data records provided to part 90 miner
x 0.05 hrs. = 100 hours

Hour Burden Costs

100 hours x \$28.13 wage rate = \$2,813

Third Year of Final Rule and Every Year Thereafter

The third year burden hours and hour burden costs for surface coal mines are shown below.

Burden Hours

4,000 sampling data records provided to part 90 miner
x 0.05 hrs. = 200 hours

Hour Burden Costs

200 hours x \$28.13 wage rate = \$5,626

Summary of Burden Hours, Costs and Responses for 1219-0011

Details	Year 1	Year 2	Year 3	Annual Average
Burden Hours	136,716	132,155	128,650	132,507
Hour Burden Costs	\$5,977,599	\$5,811,712	\$5,709,318	\$5,832,876
Responses	2,438,848	2,378,214	2,326,084	2,381,049

Provisions of the final rule that will impact the existing MSHA collection requirements in OMB 1219-0088

A. Mine Ventilation Plans

Mine Ventilation Plan; submission and approval - Existing § 75.370, and Mine Ventilation Plan; contents - Existing § 75.371

The final rule revises existing § 75.371(f) and (j) regarding the information related to respirable dust control measures that an underground coal mine operator must provide in mine ventilation plans under existing § 75.370. Operators will need to revise their mine ventilation plan to include additional engineering controls that are used to comply with the final rule. There is a one-time cost to make these revisions to comply with the final rule. After initial revisions have been made, further updates can be made when operator's normally revise their ventilation plan.

Also, under final § 70.201(b)(2), an operator must conduct DA sampling with an approved CMDPSU unless the operator notifies the District Manager in writing that only an approved CPDM will be used for all DA sampling. MSHA does not expect that operators will choose to conduct DA sampling with a CPDM; however, if they choose to do so, the notification can be submitted to MSHA along with the revisions to the ventilation plan noted above.

All underground coal mine operators must make the above revisions in accordance with existing § 75.370(a)(2). On average, MSHA estimates that 1 hour is sufficient for a supervisor, earning \$84.69 per hour, to make the plans revisions and any notifications of intent to use CPDMs for DA sampling. On average, MSHA estimates that a clerical employee, earning \$28.67 per hour, will take 15 minutes (0.25 hours) to prepare and send the revisions to MSHA. First year burden hours and hour burden costs for underground coal mines are shown below.

Burden Hours

424 plans x 1 hr.	= 424 hours
424 plans x 0.25 hrs.	= <u>106 hours</u>
Total burden hours	= 530 hours

Hour Burden Costs

424 hrs. x \$84.69 wage rate	= \$35,909
106 hrs. x \$28.67 wage rate	= <u>\$ 3,039</u>
Total hour burden costs	= \$38,948

Under existing § 75.370(a)(3)(i) and (f)(1), underground coal mine operators are required to notify the miners' representative at least 5 days prior to submission of a mine ventilation plan revision for MSHA approval and, if requested, provide a copy of the proposed and approved revisions to the miners' representative. MSHA assumes that a copy of the revisions will be requested. The number of copies provided to miners' representatives is estimated to be 424 plans, and equals the number of revisions noted above. MSHA estimates that a clerical employee will take 15 minutes (0.25 hrs.) to notify and provide a copy of the revisions. First year burden hours and hour burden costs for underground coal mines are shown below.

Burden Hours

424 plans x 0.25 hrs.	= 106 hours
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Hour Burden Costs

106 hrs. x \$28.67 wage rate	= \$3,039
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Underground coal operators must post a copy of the revisions of the mine ventilation plan under existing § 75.370(a)(3)(iii) and (f)(3). The number of postings is equal to the number of revisions. MSHA estimates that it takes a clerical employee 15 minutes to post a copy of the revisions to the mine ventilation plan. First year burden hours and hour burden costs for underground coal mines are shown below.

Burden Hours

424 plans x 0.25 hrs.	= 106 hours
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Hour Burden Costs

106 hrs. x \$28.67 wage rate	= \$3,039
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B. Abatement Sampling

Revisions to Mine Ventilation Plan or Develop or Revise Dust Control Plan - Final §§ 70.206(i)(2), 70.207(h)(2), 70.208(i)(2), 70.209(g)(2), 71.300(a), and 90.300(a)

To terminate a citation for violation of the respirable dust standard under the final rule, operators may make revisions to mine ventilation plans under final §§ 70.206(i)(2), 70.207(h)(2), 70.208(i)(2), and 70.209(g)(2) at underground coal mines; develop or make revisions to respirable dust control plans under final § 71.300(a) at surface coal mines; and develop or make revisions to respirable dust control plans under § 90.300(a) for part 90 miners. There are occasions when a citation will not result in an operator having to make a revision to the mine ventilation plan or to develop or revise a dust control plan. For example, if the citation can be abated by repositioning the miner then a change in the plan may not be needed. However, as an upper bound estimate for this analysis, MSHA assumes that all citations will require a revision to the mine ventilation plan or development or revision of a dust control plan. Thus, the number of plan developments or revisions equates to the number of citations issued.

On average, MSHA estimates that it takes a supervisor, earning \$84.69 per hour in an underground coal mine and \$71.18 per hour in a surface coal mine, 15 minutes (0.25 hrs.) to make mine ventilation plan revisions, or develop or revise dust control plans. Also, MSHA estimates that it takes a clerical employee, earning \$28.67 in an underground coal mine and \$23.91 in a surface coal mine, another 15 minutes (0.25 hrs.) to prepare and send the material to MSHA. First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

<u>Burden Hours</u>	
675 plans x 0.25 hrs.	= 169 hours
675 plans x 0.25 hrs.	= <u>169 hours</u>
Total burden hours	= 338 hours
<u>Hour Burden Costs</u>	
169 hours x \$28.67 wage rate	= \$ 4,845
169 hours x \$84.69 wage rate	= <u>\$14,313</u>
Total hour burden costs	= \$19,158

Underground Coal Mine Operators –Year Two

Burden Hours

467 plans x 0.25 hrs.	= 117 hours
467 plans x 0.25 hrs.	= <u>117 hours</u>
Total burden hours	= 234 hours
<u>Hour Burden Costs</u>	
117 hours x \$28.67 wage rate	= \$ 3,354
117 hours x \$84.69 wage rate	= <u>\$9,909</u>
Total hour burden costs	= \$13,263

Underground Coal Mine Operators – Year Three

<u>Burden Hours</u>	
771 plans x 0.25 hrs.	= 193 hours
771 plans x 0.25 hrs.	= <u>193 hours</u>
Total burden hours	= 386 hours
<u>Hour Burden Costs</u>	
193 hours x \$28.67 wage rate	= \$5,533
193 hours x \$84.69 wage rate	= <u>\$16,345</u>
Total hour burden costs	= \$21,878

Surface Coal Mine Operators – Year One

<u>Burden Hours</u>	
42 plans x 0.25 hrs.	= 11 hours
42 plans x 0.25 hrs.	= <u>11 hours</u>
Total burden hours	= 22 hours
<u>Hour Burden Costs</u>	
11 hours x \$23.91 wage rate	= \$ 263
11 hours x \$71.18 wage rate	= <u>\$783</u>
Total hour burden cost	= \$1,046

Surface Coal Mine Operators – Year Two

<u>Burden Hours</u>	
25 plans x 0.25 hrs.	= 6 hours
25 plans x 0.25 hrs.	= <u>6 hours</u>
Total burden hours	= 12 hours
<u>Hour Burden Costs</u>	

6 hours x \$23.91 wage rate	= \$ 143
6 hours x \$71.18 wage rate	= \$ 427
Total hour burden cost	= \$570

Surface Coal Mine Operators – Year Three

Burden Hours

32 plans x 0.25 hrs.	= 8 hours
32 plans x 0.25 hrs.	= <u>8 hours</u>
Total burden hours	= 16 hours

Hour Burden Costs

8 hours x \$23.91 wage rate	= \$ 191
8 hours x \$71.18 wage rate	= <u>\$569</u>
Total hour burden cost	= \$760

Notify Miners' Representative of Plan Revisions and Provide Copy if Requested – Existing § 75.370(a)(3)(i) and (f)(1); Final §§ 71.300(a)(1) and 71.301(d)(1), and 90.301(d)

Operators are required to notify the miner's representatives of mine ventilation plan revisions, or new or revised dust control plans and, if requested, provide the representative with a copy of the plan, and proposed and approved plan revisions (under existing § 75.370(a)(3)(i) and (f)(1) for underground coal operators and final §§ 71.300(a)(1) and 71.301(d)(1) for surface coal operators) and provide the part 90 miner with a copy of the plan (under final § 90.301(d)). MSHA estimates that a clerical employee, earning \$28.67 per hour in an underground mine and \$23.91 in a surface coal mine, takes 15 minutes (0.25 hours) to notify and provide a copy of the plan or revisions to the representative of miners or part 90 miner. MSHA assumes that all miners' representatives will request a copy of the plan or revisions. The number of notifications is equal to the number of citations. First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

Burden Hours
675 plans x 0.25 hrs. = 169 hours

Hour Burden Costs
169 hours x \$28.67 wage rate = \$4,845

Underground Coal Mine Operators –Year Two

Burden Hours
467 plans x 0.25 hrs. = 117 hours

Hour Burden Costs
117 hours x \$28.67 wage rate = \$3,354

Underground Coal Mine Operators – Year Three

Burden Hours
771 plans x 0.25 hrs. = 193 hours

Hour Burden Costs
193 hours x \$28.67 wage rate = \$5,533

Surface Coal Mine Operators – Year One

Burden Hours
42 plans x 0.25 hrs. = 11 hours

Hour Burden Costs
11 hours x \$23.91 wage rate = \$263

Surface Coal Mine Operators – Year Two

Burden Hours
25 plans x 0.25 hrs. = 6 hours

Hour Burden Costs
6 hours x \$23.91 wage rate = \$143

Surface Coal Mine Operators – Year Three

Burden Hours
32 plans x 0.25 hrs. = 8 hours

Hour Burden Costs
8 hours x \$23.91 wage rate = \$191

Post Copy of Plan or Plan Revision – Existing § 75.370(a)(3)(iii) and (f)(3), and Final §§ 71.300(a)(3) and 71.301(d)(3)

Operators must post a copy of the proposed and approved plan or revisions under existing §§ 75.370(a)(3)(iii) and (f)(3) for underground coal mines; and final §§ 71.300(a)(3) and 71.301(d)(3) for surface coal mines. The number of posting equates to the number of citations issued. MSHA estimates that a clerical employee, earning \$28.67 in an underground coal mine and \$23.91 in a surface coal mine, takes 15 minutes (0.25 hours) to copy, and post. First, second and third year burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

<u>Burden Hours</u>	
675 plans x 0.25 hrs.	= 169 hours
<u>Hour Burden Costs</u>	
169 hours x \$28.67 wage rate	= \$4,845

Underground Coal Mine Operators –Year Two

<u>Burden Hours</u>	
467 plans x 0.25 hrs.	= 117 hours
<u>Hour Burden Costs</u>	
117 hours x \$28.67 wage rate	= \$3,354

Underground Coal Mine Operators – Year Three

<u>Burden Hours</u>	
771 plans x 0.25 hrs.	= 193 hours
<u>Hour Burden Costs</u>	
193 hours x \$28.67 wage rate	= \$5,533

Surface Coal Mine Operators – Year One

<u>Burden Hours</u>	
42 plans x 0.25 hrs.	= 11 hours
<u>Hour Burden Costs</u>	
11 hours x \$23.91 wage rate	= \$263

Surface Coal Mine Operators – Year Two

Burden Hours

25 plans x 0.25 hrs. = 6 hours

Hour Burden Costs

6 hours x \$23.91 wage rate = \$143

Surface Coal Mine Operators – Year Three

Burden Hours

32 plans x 0.25 hrs. = 8 hours

Hour Burden Costs

8 hours x \$23.91 wage rate = \$191

C. On-Shift Examinations - Final § 75.362

Record Results of On-Shift Examinations – Final § 75.362

Final § 75.362(a)(2) requires that a person designated by the operator must conduct an examination and record the results and the corrective actions taken to assure compliance with the respirable dust control parameters specified in the mine ventilation plan. This requirement impacts only underground coal mines.

MSHA estimates that a supervisor, earning \$84.69 per hour, takes 3 minutes (0.05 hours) to make a record of the examination for the average mine in all mine sizes. On average, MSHA estimates that: 81 MMUs in mines with 1-19 employees have 1 shift per day (or 81 shifts per day); 708 MMUs in mines with 20-500 employees have 2 shifts per day (or 1,416 shifts per day); and 92 MMUs in mines with 501+ employees have 2 shifts per day (or 184 shifts per day). Records of the examinations will need to be made of these shifts each working day. On average, MSHA estimates that the number of workdays per year is: 200 days for mines with 1-19 employees; 300 days for mines with 20-500 employees; and 350 days for mines with 501+ employees. The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

505,400 records x 0.05 hrs. = 25,270 hours

Hour Burden Costs

25,270 hours x \$84.69 wage rate = \$2,140,116

Final § 75.362(g)(2)(i) requires that the final record required under § 75.362(a)(2) be certified by initials, date and time on a board maintained at the section load-out or similar location showing that the examination was made prior to resuming production. This final standard does not add any new burden because the record is already required under existing § 75.362(g)(2).

Final § 75.362(g)(2)(ii) requires that the record required under final § 75.362(a)(2) be verified, by initials and date, by the certified person directing the on-shift examination. Final § 75.362(g)(3) requires that the mine foreman or equivalent official countersign each examination record under final § 75.362(a)(2) after it is verified by a certified person in accordance with final § 75.362(g)(2)(ii). MSHA estimates that it takes 1 minute (0.0167 hours) for a certified person earning \$84.69 per hour to verify the record; and another 1 minute (0.0167 hours) for a a mine foreman or equivalent mine official earning \$84.69 per hour to review and countersign the record.

MSHA estimates that 505,400 records will be verified and countersigned per year: 16,200 records in mines with 1-19 employees (81 shifts per day x 200 days per year); 424,800 records in mines with 20-500 employees (1,416 shifts per day x 300 days per year); and 64,400 records in mines with 501+ employees (184 shifts per day x 350 days per year). The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

505,400 records x 0.0167 hrs. = 8,440 hours

505,400 records x 0.0167 hrs. = 8,440 hours

Total burden hours =16,880 hours

Hour Burden Costs

8,440 hours x \$84.69 wage rate = \$ 714,784

8,440 hours x \$84.69 wage rate = \$ 714,784

Total hour burden cost = \$1,429,568

Summary of Burden Hours, Costs and Responses for 1219-0088

Details	Year 1	Year 2	Year 3	Annual Average
Burden Hours	43,612	42,642	42,954	43,069
Hour Burden Costs	\$3,645,130	\$3,590,511	\$3,603,764	\$3,613,135
Responses	1,521,282	1,518,576	1,520,178	1,520,012

Provisions of the final rule that will impact the existing MSHA collection requirements in OMB 1219-0009

A. CPDM Training at Underground Mines

Records for CPDM Training at Underground Coal Mines – Final §§ 70.201(i) and 90.201(i)

Final §§ 70.201(i) and 90.201(i) require coal mine operators to keep a record of miners who receive CPDM training. The estimate of the number of miners at underground mines who will need CPDM training is 16,626. In addition, there are 66 part 90 miners that will need CPDM training, for a total of 16,692 miners that will receive annual training.

MSHA estimates that it takes a clerical employee 0.0083 hours (30 seconds) to make a record of each miner who received the CPDM training. The annual burden hours and hour burden costs for underground coal mine operators are shown below.

Underground Coal Mine Operators

Burden Hours

16,692 records x 0.0083 hrs. = 139 hours

Hour Burden Costs

139 hours x \$28.67 wage rate = \$3,985

B. CPDM Training for Part 90 Miners at Surface Coal Mines

Records for CPDM Training at Surface Coal Mines – Final §§ 71.201(h) and 90.201(i)

Final § 90.201(i) requires coal mine operators to keep a record of part 90 miners who receive CPDM training and final § 71.201(h) requires coal mine operators to keep a record of surface coal miners who receive CPDM training. There is no separate burden estimate for final § 71.201(h) because the only surface coal miners that are expected to be sampled with the CPDM and need CPDM training are the part 90 miners. MSHA is accounting for the burden for final § 71.201(h) in the burden for final § 90.201(i).

MSHA estimates that it takes a clerical employee, earning \$23.91 per hour, 0.0083 hours (30 seconds) to make a record of each part 90 miner who received the CPDM training. The annual burden hours and hour burden costs for surface coal mines are shown below.

Surface Coal Mine Operators

Burden Hours

200 records x 0.00833 hrs. = 2 hours

Hour Burden Costs

2 hours x \$23.91 wage rate = \$48

C. Respirator Training

Records of Respirator Training – Final § 72.700(c)

Final § 72.700(c) requires coal mine operators to keep a record of respirator training. MSHA estimates that it takes a clerical employee, earning \$28.67 an hour in an underground coal mine or \$23.91 an hour in a surface mine, 30 seconds (0.00833 hours) per trainee to make a record of respirator training. The annual burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Mine Operators

Burden Hours

10,254 records x 0.00833 hrs. = 85 hours

Hour Burden Costs

85 hours x \$28.67 wage rate = \$2,437

The first, second and third year burden hours and hour burden costs for surface coal mines are shown below.

Surface Coal Mine Operators – Year One

Burden Hours
 93 records x 0.00833 hrs. = 1 hour
Hour Burden Costs
 1 hour x \$23.91 wage rate = \$24

Surface Coal Mine Operators – Year Two

Burden Hours
 57 records x 0.00833 hrs. = 0.5 hours
Hour Burden Costs
 0.5 hours x \$23.91 wage rate = \$12

Surface Coal Mine Operators – Year Three

Burden Hours
 73 records x 0.00833 hrs. = 0.6 hours
Hour Burden Costs
 0.6 hours x \$23.91 wage rate = \$14

Summary of Burden Hours, Costs and Responses for 1219-0009

Details	Year 1	Year 2	Year 3	Annual Average
Burden Hours	227	227	227	227
Hour Burden Costs	\$6,494	\$6,482	\$6,484	\$6,487
Responses	27,239	27,203	27,219	27,220

Provisions of the final rule that will create MSHA collection requirements to OMB 1219-0NEW Unique

A. Periodic Examinations

Develop Roster and Plan, and Post Plan – Final 72.100(d) and (e)

Final § 72.100(d) requires each coal mine operator to develop and submit to the National Institute for Occupational Safety and Health (NIOSH) a plan as specified in 42 CFR Part 37 for providing miners with the examinations specified in final § 72.100(a) and a roster specifying the name and current address of each miner covered by the plan. Final § 72.100(e) requires operators to post the approved plan on the mine bulletin board.

Under existing 42 CFR § 37.4, each operator of an underground coal mine is required to submit to NIOSH a plan for providing miners with the required chest x-rays and post it on the mine bulletin board. It has also been a practice that operators submit to NIOSH an employee roster with the plan. MSHA assumes that, in the first year of the final rule, underground coal mine operators will revise the existing roster and plans for chest x-rays to add spirometry examinations. In an underground coal mine, MSHA estimates that it takes a supervisor, earning \$84.69 an hour, 10 minutes (0.167 hours) to revise the roster and plan and a clerical employee, earning \$28.67 an hour, 5 minutes (0.0833 hours) to copy and submit the revised roster and plan and post the plan. The first year burden hours and hour burden costs for underground coal mines are shown below.

Underground Coal Operators – Year 1

<u>Burden Hours</u>	
424 plans x 0.0833 hrs.	= 35 hours
424 plans x 0.167 hrs.	= <u>71 hours</u>
Total burden hours	= 106 hours
<u>Hour Burden Costs</u>	
35 hours x \$28.67 wage rate	= \$1,003
71 hours x \$84.69 wage rate	= <u>\$6,013</u>
Total hour burden costs	= \$7,016

Each surface coal mine operator will develop and submit to NIOSH a roster and plan for providing the examinations required under final § 72.100(a). In a surface coal mine, MSHA estimates that it takes a supervisor, earning \$71.18 per hour, 1 hour to develop the roster and plan and a clerical employee, earning \$23.91 an hour, 5 minutes (0.0833 hours) to copy and submit the roster and plan and post. The first year burden hours and hour burden costs for surface coal mines are shown below.

Surface Coal Operators – Year 1

Burden Hours

1,123 plans x 0.0833 hrs. = 94 hours

1,123 plans x 1 hr. = 1,123 hours

Total burden hours = 1,217 hours

Hour Burden Costs

94 hours x \$23.91 wage rate = \$ 2,248

1,123 hours x \$71.18 wage rate = \$79,935

Total hour burden costs = \$82,183

Revise and Post Plan

Since the periodic examinations required under § 72.100(a) must be provided at least once every 5 years (§ 72.100(b)), MSHA assumes that each year one-fifth of the mine operators will have to revise their plans to specify the 6 month period that the examinations will be available and the NIOSH-approved facility that will provide the examinations. Final § 72.100(e) also requires the operator to post the approved plan. MSHA estimates that it takes a supervisor, earning \$84.69 an hour in an underground coal mine or \$71.18 an hour in a surface coal mine, 10 minutes (0.167 hours) to revise the plan and a clerical employee, earning \$28.67 an hour in an underground coal mine or \$23.91 an hour in a surface coal mine, 5 minutes (0.0833 hours) to copy and submit the revised plan and post the plan. The annual burden hours and hour burden costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators - Annual

Burden Hours

84 plans x 0.0833 hrs. = 7 hours

84 plans x 0.167 hrs. = 14 hours

Total burden hours = 21 hours

Hour Burden Costs

7 hours x \$28.67 wage rate = \$ 201

14 hours x \$84.69 wage rate = \$1,186

Total hour burden costs = \$1,387

Surface Coal Mine Operators - Annual

Burden Hours

224 plans x 0.0833 hrs.	= 19 hours
224 plans x 0.167 hr.	= <u>37 hours</u>
Total burden hours	= 56 hours
<u>Hour Burden Costs</u>	
19 hours x \$23.91 wage rate	= \$ 454
37 hours x \$71.18 wage rate	= <u>\$2,634</u>
Total hour burden costs	= \$3,088

Summary of Burden Hours, Costs and Responses for 1219-0NEW Unique

Details	Year 1	Year 2	Year 3	Annual Average
Burden Hours	1,400	77	77	518
Hour Burden Costs	\$93,674	\$4,475	\$4,475	\$34,208
Responses	3,710	616	616	1,647

Summary of Burden Hours, Costs and Responses for All ICs in This Collection

Details	Year 1	Year 2	Year 3	Average
OMB 1219-0011				
Burden Hours	136,716	132,155	128,650	132,507
Hour Burden Costs	\$5,977,599	\$5,811,712	\$5,709,318	\$5,832,876
Responses	2,438,848	2,378,214	2,326,084	2,381,049
OMB 1219-0088				
Burden Hours	43,612	42,642	42,954	43,069
Hour Burden Costs	\$3,645,130	\$3,590,511	\$3,603,764	\$3,613,135
Responses	1,521,282	1,518,576	1,520,178	1,520,012
OMB 1219-0009				
Burden Hours	227	227	227	227
Hour Burden Costs	\$6,494	\$6,482	\$6,484	\$6,487
Responses	27,239	27,203	27,219	27,220
OMB 1219-0NEW Unique				

Burden Hours	1,400	77	77	518
Hour Burden Costs	\$93,674	\$4,475	\$4,475	\$34,208
Responses	3,710	616	616	1,647
Total				
Burden Hours	181,955	175,101	171,908	176,321
Hour Burden Costs	\$9,722,897	\$9,413,180	\$9,324,041	\$9,486,706
Responses	3,991,079	3,924,609	3,874,097	3,929,928

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Provisions of the final rule that will impact the existing MSHA collection requirements in OMB 1219-0011

A. Abatement Sampling

Cost to Send Dust Data Card with Sample to MSHA - Final §§ 70.210(a) and (c), 71.207(a) and (c), and 90.208(a) and (c)

Under final § 70.210(a) and (c) for underground coal mines; final § 71.207(a) for surface coal mines; and § 90.208(a) and (c) for part 90 miners, operators must complete and sign dust data cards and submit the cards with the abatement samples to MSHA. Each violation requires five abatement samples.

Submitting Abatement Samples When Using a CMDPSU

When abatement sampling is conducted with the CMDPSU, the sample must be mailed with a completed dust data card to MSHA. The costs for submitting a sample and the dust data card are as follows. MSHA estimates that, on average, postage for mailing will cost \$1 per sample for mines with 1-19 employees. For mines with 20-500 employees and 501 or more employees, MSHA assumes that 2 samples will be sent in each mailing, for a postage cost of \$0.50 per sample.

When conducting abatement sampling with the CPDM, the sample is transmitted electronically and no mailing occurs. First, second and third year costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

(1-19 employees) 315 data cards x \$1 cost to transmit	= \$ 315
(20-500 employees) 2,645 data cards x \$0.50 cost to transmit	= \$1,323
(501+ employees) 415 data cards x \$0.50 cost to transmit	= \$ 208
Total Costs	= \$1,846

First Half of Second Year

In the first half of the second year, sampling must be conducted like it was conducted in the first year using the CMDPSU.

Underground Coal Mine Operators – First half of Year Two

(1-19 employees) 115 data cards x \$1 cost to transmit	= \$ 115
(20-500 employees) 900 data cards x \$0.50 cost to transmit	= \$ 450
(501+ employees) 160 data cards x \$0.50 cost to transmit	= \$ 80
Total Costs	= \$645

Remaining Half of Second Year and Thereafter

In the second half of the second year, and for every year thereafter, underground coal mine operators must use the CPDM to conduct abatement sampling. There are no costs associated with the electronic transmission of sample results.

Surface Coal Mine Operators – Year One

(1-19 employees) 105 data cards x \$1 cost to transmit	= \$105
(20-500 employees) 85 data cards x \$0.50 cost to transmit	= \$ 43
(501+ employees) 20 data cards x \$0.50 cost to transmit	= <u>\$ 10</u>
Total Costs	= \$158

Surface Coal Mine Operators – Year Two

(1-19 employees) 65 data cards x \$1 cost to transmit	= \$65
(20-500 employees) 50 data cards x \$0.50 cost to transmit	= \$ 25
(501+ employees) 10 data cards x \$0.50 cost to transmit	= <u>\$ 5</u>
Total Costs	= \$95

Surface Coal Mine Operators – Year Three

(1-19 employees) 80 data cards x \$1 cost to transmit	= \$80
(20-500 employees) 65 data cards x \$0.50 cost to transmit	= \$ 33
(501+ employees) 15 data cards x \$0.50 cost to transmit	= <u>\$ 8</u>
Total Costs	= \$121

Copy Costs for Posting Sampling Data from the MSHA Report, Posting a Paper Record (Dust Data Card), Providing the MSHA Report and the Paper Record (Dust Data Card) to the Part 90 Miner – Final §§ 70.211(b) and (c), 71.208(b) and (c), and 90.209(b) and (c)

Operators are required to post sampling data from the MSHA report and the paper record (Dust Data Card) of the sample run under final § 70.211(b) and (c), respectively, at underground coal mines and, under final § 71.208(b) and (c), respectively, at surface coal mines. (The operator can post the MSHA report since the report contains the sampling data.) Under final § 90.209(b) and (c), operators must provide a copy of the MSHA report and paper record (Dust Data Card) to the affected part 90 miner. MSHA estimates that it costs \$0.15 per copy of the MSHA report and Dust Data Card. MSHA’s current practice is to transmit its reports to the operator in a group, so the number of times to post the data or provide the MSHA report or Dust Data Card to the part 90 miner equates to the number of citations issued. First, second and third year costs for underground and surface coal mines are shown below.

<u>Underground Coal Mine Operators – Year One</u>	
675 Sampling data statements	
x \$0.15 per copy	= \$101
<u>Underground Coal Mine Operators – Year Two</u>	
467 Sampling data statements	
x \$0.15 per copy	= \$70
<u>Underground Coal Mine Operators – Year Three</u>	
771 Sampling data statements	
x \$0.15 per copy	= \$116
<u>Surface Coal Mine Operators – Year One</u>	
42 Sampling data statements	
x \$0.15 per copy	= \$ 6
<u>Surface Coal Mine Operators – Year Two</u>	
25 Sampling data statements	
x \$0.15 per copy	= \$ 4
<u>Surface Coal Mine Operators – Year Three</u>	
32 Sampling data statements	
x \$0.15 per copy	= \$ 5

B. CMDPSU Compliance Sampling

Cost to Send the List of DWPs to MSHA – Final § 71.206(d)

Final § 71.206(d) requires operators to provide the MSHA District Manager with a list identifying the specific work positions where DWP samples will be collected. MSHA estimates a postage cost of \$1 per mine to send the list to MSHA.

MSHA estimates that the number of underground coal mines with surface areas that have DWPs are: 3 mines with 1-19 employees; 21 mines with 20-500 employees; and 8 mines with 501+ employees. MSHA estimates that the number of surface coal mines with DWPs is: 620 mines with 1-19 employees; 491 mines with 20-500 employees; and 12 mines with 501+ employees. The first year costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

32 mines x \$1 cost to transmit = \$32

Surface Coal Mine Operators

1,123 mines x \$1 cost to transmit = \$1,123

Also, MSHA assumes that 10 percent of mines each year (including the first year) will update their lists. The annual costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

4 mines x \$1 cost to transmit = \$4

Surface Coal Mine Operators

112 mines x \$1 cost to transmit = \$112

Costs for Transmitting the Dust Data Card with Samples to MSHA – Final §§ 70.201, 71.207 and 90.208

Final §§ 70.210, 71.207 and 90.208 require each sample to be transmitted to MSHA with a completed dust data card. MSHA estimates that, on average, postage for mailing will cost \$1 per sample for mines with 1-19 employees. For mines with 20-500 employees and 501 or more employees, MSHA assumes that 2 samples will be sent in each mailing, for a postage cost of \$0.50 per sample. The first, second and third year costs for underground coal mines and the annual costs for surface mines are shown below.

Underground Coal Mine Operators – Year One

Additional Samples

(1-19 employees) 1,510 data cards x \$1 cost to transmit	= \$1,510
(20-500 employees) 13,554 data cards x \$0.50 cost to transmit	= \$6,777
(501+ employees) 2,008 data cards x \$0.50 cost to transmit	= <u>\$1,004</u>
Total Costs	= \$9,291

Underground Coal Mine Operators –Year Two

Reduction in Samples

(1-19 employees) -109 data cards x \$1 cost to transmit	= (\$ 109)
(20-500 employees) -2,090 data cards x \$0.50 cost to transmit	= (\$1,045)
(501+ employees) -11 data cards x \$0.50 cost to transmit	= <u>(\$ 6)</u>
Total Cost Reduction	= (\$1,160)

Underground Coal Mine Operators – Year Three

Reduction in Samples

(1-19 employees) -1,728 data cards x \$1 cost to transmit	= (\$ 1,728)
(20-500 employees) -17,734 data cards x \$0.50 cost to transmit	= (\$ 8,867)
(501+ employees) -2,030 data cards x \$0.50 cost to transmit	= <u>(\$ 1,015)</u>
Total Costs	= (\$11,610)

Surface Coal Mine Operators – Annual

Additional Samples

(1-19 employees) 3,564 data cards x \$1 cost to transmit	= \$3,564
(20-500 employees) 6,076 data cards x \$0.50 cost to transmit	= \$3,038
(501+ employees) 238 data cards x \$0.50 cost to transmit	= <u>\$ 119</u>
Total Costs	= \$6,721

Copy Costs Related to Posting Sampling Data or Providing Sampling Data to Part 90 Miner – Final §§ 70.211(b), 71.208(b) and 90.209(b)

After processing the CMDPSU samples, MSHA sends a report with the sampling data to the operator. Upon receiving the report, final §§ 70.211(b) and 71.208(b) require operators to post the data on the mine bulletin board. Final § 90.209(b) requires operators to provide the affected part 90 miner with a copy of the MSHA report. MSHA estimates one-page copy costs of \$0.15 per report. The first, second and third year costs for underground coal mines and the annual costs for surface mines are shown below.

Underground Coal Mine Operators – Year One

17,072 postings of sampling data or providing data to part 90 miner	
x \$0.15 per copy	= \$2,561

Underground Coal Mine Operators –Year Two

(2,210) postings of sampling data or providing data to part 90 miner
x \$0.15 per copy = (\$332)

Underground Coal Mine Operators – Year Three

(21,492) postings of sampling data or providing data to part 90 miner
x \$0.15 per copy =(\$3,224)

Surface Coal Mine Operators – Annual

9,878 postings of sampling data or providing data to part 90 miner
x \$0.15 per copy = \$1,482

C. CPDM Compliance Sampling at Underground Mines

Copy Costs Related to Posting Sampling Data from MSHA Report; Print, Sign and Post CPDM Sampling Dust Data Card; and Provide MSHA Report and Paper Record (Dust Data Card) to Part 90 Miners – Final §§ 70.211 and 90.209

Final § 70.211(b) requires the operator to post sampling data from MSHA reports on the mine bulletin board and final § 90.209(b) requires the operator to provide copies of the MSHA report to part 90 miners. Under final § 70.211(b), the operator can post the MSHA report since the report contains the sampling data.

Final §§ 70.211(c) and 90.209(c) apply to operators who use a CPDM. Final § 70.211(c) requires the person certified in sampling to print, sign and post on the mine bulletin board within 12 hours after the end of each sampling shift a paper record (Dust Data Card) of the sampling run. Final § 90.209(c) requires the Dust Data Card to be provided to each part 90 miner.

The number of CPDM samples per year estimated above are used to derive the costs to copy the MSHA Reports and the Dust Data Cards. MSHA estimates the copy cost per report and dust data card is \$0.15. The annual costs for underground coal mines are shown below.

Underground Coal Operators

290,520 postings of sampling data or provide data to part 90 miner
x \$0.15 per copy = \$43,578

D. CPDM Compliance Sampling for Part 90 Miners at Surface Coal Mines

Cost to Provide MSHA Report and CPDM Dust Data Card to Part 90 Miners – Final § 90.209

Final § 90.209(b) requires the operator to provide copies of the MSHA reports of sampling data received by the operator under final § 90.209(a) to part 90 miners.

Final § 90.209(c) requires operators to provide the paper record (Dust Data Card) to part 90 miners. A new CPDM filter is used every time a CPDM is used to sample and a Dust Data Card of the information (paper record) is generated after the sample is taken. Thus, the number of times Dust Data Cards will be provided to part 90 miners is equal to the number of CPDM filters used. MSHA estimates that it costs \$0.15 to make a copy of each Dust Data Card. The first, second and third year costs for surface coal mines are shown below.

First Year of Final Rule

There are no costs to print the Dust Data Card from CPDMs used to perform part 90 miner sampling at surface coal mines in the first year that the rule becomes effective.

Second Year of Final Rule

2,000 sampling data statements x \$0.15 per copy = \$300

Third Year of Final Rule and Every Year Thereafter

4,000 sampling data statements x \$0.15 per copy = \$600

Summary of Costs for 1219-0011

Details	Year 1	Year 2	Year 3	Average
OMB 1219-0011				
Costs	\$67,015	\$51,519	\$37,905	\$52,146

Provisions of the final rule that will impact the existing MSHA collection requirements in OMB 1219-0088

A. Mine Ventilation Plans

Copy and Transmission Costs for Revising Mine Ventilation Plan; submission

and approval - Existing § 75.370, and Mine Ventilation Plan; contents - Existing § 75.371

Under existing § 75.370(a)(2), all underground coal mines must revise existing approved mine ventilation plans. The operator must revise the mine ventilation plan to include additional engineering controls, specified in final § 75.371(f) and (j), that are used to comply with the final rule. There is a one-time cost to make these revisions to comply with the final rule. After initial revisions have been made, further updates can be made when operator's normally revise their ventilation plan. On average, MSHA estimates that a plan revision will be three pages. Copying will cost \$0.15 per page and \$1.00 for postage, for a total cost of \$1.45 per plan revision. First year costs for underground coal mines are shown below.

424 plans x \$1.45 for copy and transmission costs = \$615

Copy Costs for Notifying Miners' Representative of Plan Revisions and Provide Copy if Requested – Existing § 75.370(a)(3)(i) and (f)(1)

Underground coal mine operators are required to notify the miners' representative at least 5 days prior to submission of a mine ventilation plan revision and, if requested, provide a copy of the revisions to the miners' representative under existing § 75.370(a)(3)(i) and (f)(1). MSHA assumes that a copy of the revisions will be requested. The number of copies provided equals the number of revisions noted above. MSHA estimates that costs of copying will be \$0.45 for three pages. First year costs for underground coal mines are shown below.

424 plans x \$0.45 per copy = \$191

Copy Costs Related to Posting Revision of Mine Ventilation Plan – Existing § 75.370(a)(3)(iii) and (f)(3)

Underground coal mine operators must post a copy of the revisions of the mine ventilation plan under existing § 75.370(a)(3)(iii) and (f)(3). The number of postings is equal to the number of revisions noted above. MSHA estimates that costs of copying will be \$0.45 for three pages. First year costs for underground coal mines are shown below.

424 plans x \$0.45 per copy = \$191

B. Abatement Sampling

Copy and Transmission Costs for Mine Ventilation Plan Revisions or Dust Control Plan or Revisions - Final §§ 70.206(i)(2), 70.207(h)(2), 70.208(i)(2), 70.209(g)(2), 71.300(a), and 90.300(a)

To terminate a citation for violation of the respirable dust standard under the final rule, operators must :revise mine ventilation plans under final §§ 70.206(i)(2), 70.207(h)(2), 70.208(i)(2), and 70.209(g)(2) for underground coal mine operators; or submit a dust control plan, or revisions to an existing plan, for the affected DWP at a surface coal mine under final § 71.300(a) or for the affected part 90 miner under final § 90.300(a). On average, MSHA estimates that a plan revision will be two pages, copy costs are \$0.15 per page, and postage is \$1.00, for a total cost per revision of \$1.30. First, second and third year costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators – Year One

675 plans x \$1.30 for copy and transmission costs = \$876

Underground Coal Mine Operators –Year Two

467 plans x \$1.30 for copy and transmission costs = \$607

Underground Coal Mine Operators – Year Three

771 x \$1.30 for copy and transmission costs = \$1,002

Surface Coal Mine Operators – Year One

42 plans x \$1.30 for coy and transmission costs = \$55

Surface Coal Mine Operators – Year Two

25 plans x \$1.30 for copy and transmission costs = \$33

Surface Coal Mine Operators – Year Three

32 plans x \$1.30 for copy and transmission costs = \$42

Copy Costs Related to Notifying Miners' Representative of Plan Revisions and Provide Copy if Requested – Existing § 75.370(a)(3)(i) and (f)(1), Final §§ 71.300(a)(1) and 71.301(d)(1), and 90.301(d)

Operators are required to notify the representative of miners of a mine ventilation plan revision, or a new or revised dust control plan and, if requested, provide the representative with a copy of the proposed and approved revisions (under existing § 75.370(a)(3)(i) and (f)(1) for underground coal mine operators and final §§ 71.300(a)(1) and § 71.301(d)(1) for surface coal mine operators) and provide the part 90 miner with a copy of plan revisions (under final § 90.301(d)). On average, MSHA estimates that a plan revision will be two pages and copy costs are \$0.15 per page, for a total cost

per revision of \$0.30 to provide a copy of the plan revisions to the representative of the miners or part 90 miner. MSHA assumes that all miners' representatives will request a copy of the plan revisions. The number of notifications is equal to the number of citations. First, second and third year costs for underground and surface coal mines are shown below.

<u>Underground Coal Mine Operators – Year One</u>	
675 plans x \$0.30 per copy	= \$203
<u>Underground Coal Mine Operators –Year Two</u>	
467 plans x \$0.30 per copy	= \$140
<u>Underground Coal Mine Operators – Year Three</u>	
771 x \$0.30 per copy	= \$231
<u>Surface Coal Mine Operators – Year One</u>	
42 plans x \$0.30 per copy	= \$13
<u>Surface Coal Mine Operators – Year Two</u>	
25 plans x \$0.30 per copy	= \$8
<u>Surface Coal Mine Operators – Year Three</u>	
32 plans x \$0.30 per copy	= \$10

Copy Costs Related to Posting a Plan or Plan Revision – Existing § 75.370(a)(3)(iii), and (f)(3) and Final §§ 71.300(a)(3) and 71.301(d)(3)

Operators must post a copy of a proposed and approved plan or revisions under existing § 75.370(a)(3)(iii) and (f)(3) for underground coal mines; and final §§ 71.300(a)(3), and 71.301(d)(3) for surface coal mines. The number of posting equates to the number of citations issued. On average, MSHA estimates that a plan or revision will be two pages and copy costs are \$0.15 per page, for a total cost of \$0.30 per copy. First, second and third year costs for underground and surface coal mines are shown below.

<u>Underground Coal Mine Operators – Year One</u>	
675 plans x \$0.30 per copy	= \$203
<u>Underground Coal Mine Operators –Year Two</u>	
467 plans x \$0.30 per copy	= \$140

Underground Coal Mine Operators – Year Three

771 x \$0.30 per copy = \$231

Surface Coal Mine Operators – Year One

42 plans x \$0.30 per copy = \$13

Surface Coal Mine Operators – Year Two

25 plans x \$0.30 per copy = \$8

Surface Coal Mine Operators – Year Three

32 plans x \$0.30 per copy = \$10

Summary of Costs for 1219-0088

Details	Year 1	Year 2	Year 3	Average
OMB 1219-0088				
Costs	\$2,360	\$936	\$1,526	\$1,607

Provisions of the final rule that will create MSHA collection requirements in 1219-0NEW Unique.

A. Periodic Examinations

Copy Costs for Roster and Plan Required Under Final § 72.100

Final § 72.100 (d) requires each coal mine operator to develop and submit to the the National Institute for Occupational Safety and Health a plan for providing miners with the required periodic examinations and a roster specifying the name and current address of miners covered by the plan. Final § 72.100(e) requires operators to post the approved plan on the mine bulletin board.

On average, MSHA estimates that a roster and plan will be two pages and copy costs are \$0.15 per page, for a total cost per copy of \$0.30. The first year costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

424 plans x \$0.30 per copy = \$127

Surface Coal Mine Operators

1,123 plans x \$0.30 per copy = \$337

Copy Costs for Revised Roster and Plan

Since the periodic examinations required under § 72.100(a) must be provided at least once every 5 years (§ 72.100(b)), MSHA assumes that each year one-fifth of the mine operators will have to revise their plans to specify the 6 month period and the NIOSH-approved facilities that will provide the examinations and to post the approved plans. On average, MSHA estimates that a revised roster and plan will be two pages and copy costs are \$0.15 per page, for a total cost per revision of \$0.30. The annual costs for underground and surface coal mines are shown below.

Underground Coal Mine Operators

84 plans x \$0.30 per copy = \$25

Surface Coal Mine Operators

224 plans x \$0.30 per copy = \$67

Summary of Costs for 1219-ONEW Unique

Details	Year 1	Year 2	Year 3	Average
OMB 1219-ONEW				
Costs	\$556	\$92	\$92	\$247

Summary of Costs for All ICs

Details	Year 1	Year 2	Year 3	Average
OMB 1219-0011				
Costs	\$67,015	\$51,519	\$37,905	\$52,146
OMB 1219-0088				
Costs	\$2,236	\$936	\$1,526	\$1,607
OMB 1219-0009				
Costs	\$0	\$0	\$0	\$0
OMB 1219-ONEW Unique				

Costs	\$556	\$92	\$92	\$247
Total				
Costs	\$69,807	\$52,547	\$39,523	\$53,959

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 will incur two types of costs to implement the final rule. First, MSHA will incur increase costs related to current MSHA activities to support implementation of the final rule (such as, the change in respirable coal mine dust sampling). Second, MSHA will incur increase costs related to handle the electronic filing of CPDM sampling data submitted by underground and surface coal operators.

A. Annual Costs to MSHA Associated with Data processing and reporting of results to mine operators

MSHA estimates that increased annual costs for current MSHA activities to support the implementation of the final rule will be \$284,939. Specifically, the \$284,939 includes: \$148,212 for personnel costs; \$116,167 for contractor staff; \$4,600 for maintenance on software licensing, printer, and supplies; and \$15,900 for data mailers and postage.

Annual Costs

Data processing and reporting of results to mine operators

MSHA personnel cost	= \$ 148,212
Contractor staff	= \$ 116,167
Maintenance (Software licensing, printer, and supplies)	= \$ 4,660
Data mailers (15,900 mailers x \$0.17)	= \$ 2,703

Postage (15,900 x \$0.83)	= \$ <u>13,197</u>
Subtotal	= \$ 284,939

B. Other costs to MSHA related to handling the electronic filing of CPDM sampling data submitted by underground and surface coal operators

MSHA will also incur costs to handle the CPDM sampling data supplied to MSHA by operators that is required by the final rule. In the first year of the final rule, MSHA will incur a one-time cost of \$519,000 (\$400,000 for application maintenance, \$104,000 for hardware maintenance, and \$15,000 for software licensing). For data storage of the CPDM sampling data submitted to MSHA by operators, MSHA will incur a one-time cost of \$210,000 in the second year of the rule and a one-time cost of \$75,000 in the third year of the rule. MSHA will not incur any increased costs with handling the CPDM sampling data submitted by operators in the fourth year of the rule and every year thereafter. Any ongoing maintenance costs associated with handling the CPDM sampling data submitted by operators in the fourth year of the final rule and every year thereafter can be handled at current budget funding levels.

Data processing and reporting of results to mine operators
Year 1

Application Maintenance	= \$ 400,000
Hardware Maintenance	= \$ 104,000
Software Licensing	= \$ <u>15,000</u>
Subtotal	= \$ 519,000

Year 2

Data storage	= \$210,000
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Year 3

Data storage	= \$75,000
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Summary of Costs to the Federal Government for All ICs

Description Of Costs	First Year Of Final Rule	Second Year Of Final Rule	Third Year Of Final Rule And Every Year Thereafter
MSHA LABOR AND ADMINISTRATIVE COSTS ASSOCIATED WITH CHANGING USE OF THE GRAVIMETRIC SAMPLER UNDER THE FINAL RULE			
MSHA / Program Evaluation and Information Resources personnel costs	\$148,212	\$148,212	\$148,212
Program Evaluation and Information Resource Contractor staff	\$116,167	\$116,167	\$116,167
Maintenance (software licensing, printer, and supplies)	\$4,660	\$4,660	\$4,660
Data mailers (15,900 mailers x \$0.17)	\$2,703	\$2,703	\$2,703
Postage (15,900 x \$0.83)	\$13,197	\$13,197	\$13,197
Sub-total	\$284,939	\$284,939	\$284,939
MSHA LABOR AND ADMINISTRATIVE COSTS ASSOCIATED WITH REQUIRING CPDM USE IN MINES			
Application maintenance	\$400,000		
Hardware maintenance	\$104,000		
Software licensing	\$15,000		
Data Storage		\$210,000	\$75,000
Sub-total	\$519,000	\$210,000	\$75,000
Total	\$803,939	\$494,939	\$359,939

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

This overall request is a new ICR and therefore a program change. There is an increase requested in burden hours (0 to 176,321) in responses (0 to 3,929,928) and in costs (0 to \$54,000). There are 424 respondents for underground coal mines and 1,123 respondents for surface coal mines, 1,547 total respondents.

This ICR package shows below the estimated responses, burden hours, and costs that will be applied to the individual control numbers as a result of the final rule.

IC 1219-0011

Responses: MSHA estimates that there will be 2,438,848 responses in year one; 2,378,214 responses in year two and 2,326,084 responses in year three. MSHA estimates that the annual average responses will be 2,381,049.

Burden Hours: MSHA estimates that there will be 136,716 burden hours in year one; 132,155 burden hours in year two and 128,650 burden hours in year three. MSHA estimates that the annual average burden hours will be 132,507.

Costs: MSHA estimates that the costs will be \$67,015 in year one; \$51,519 in year two and \$37,905 in year three. MSHA estimates that annual average burden costs will be \$52,146.

IC 1219-0088

Responses: MSHA estimates that there will be 1,521,282 responses in year one; 1,518,576 responses in year two and 1,520,178 responses in year three. MSHA estimates that the annual average responses will be 1,520,012.

Burden Hours: MSHA estimates that there will be 43,612 burden hours in year one; 42,642 burden hours in year two and 42,954 burden hours in year three. MSHA estimates that the annual average burden hours will be 43,069.

Costs: MSHA estimates that the costs will be \$2,360 in year one; \$936 in year two and \$1,526 in year three. MSHA estimates that annual average burden costs will be \$1,607.

IC 1219-0009

Responses: MSHA estimates that there will be 27,239 annual responses in year one; 27,203 responses in year two and 27,219 responses in year three. MSHA estimates that the annual average responses will be 27,220.

Burden Hours: MSHA estimates that there will be 227 burden hours in year one; 227 burden hours in year two and 227 burden hours in year three. MSHA estimates that the annual average burden hours will be 227.

Costs: The final rule does not add any new costs to this existing collection.

1219-ONEW Unique

Responses: MSHA estimates that there will be 3,710 responses in year one; 616 responses in year two and 616 responses in year three. MSHA estimates that the annual average responses will be 1,647.

Burden Hours: MSHA estimates that there will be 1,400 burden hours in year one; 77 burden hours in year two and 77 burden hours in year three. MSHA estimates that the annual average burden hours will be 518.

Costs: MSHA estimates that the costs will be \$556 in year one; \$92 in year two and \$92 in year three. MSHA estimates that annual average burden costs will be \$247.

Itemized Changes in Annual Burden Hours			
Information Collection Activity	Program Change (hours currently on OMB Inventory for this ICR)	Program Change (New)	Difference
1219-0011	0	132,507	+132,507
1219-0088	0	43,069	+43,069
1219-0009	0	227	+227
1219-ONEW UNIQUE	0	518	+518
Total(s)	0	176,321	+176,321

This is a new collection, and there is no previously approved burden on the OMB inventory for this ICR. The addition of these IC's to this collection represents a program change.

Itemized Changes in Annual Cost Burden			
Information Collection Activity	Program Change (cost currently on OMB Inventory for this ICR)	Program Change (New)	Difference
1219-0011	0	\$52,146	\$52,146
1219-0088	0	\$1,607	\$1,607
1219-0009	0	\$0	\$0
1219-0NEW UNIQUE	0	\$247	\$247
Total(s)	0	\$54,000	+\$54,000

This is a new collection, and there is no previously approved burden on the OMB cost inventory for this ICR. The addition of these IC's to this collection represents a program change.

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.

The transmittal and processing of dust data cards under IC 1219-0011 is not required for publication. Results are reported back to mine operators and the electronic database is used by MSHA to plan enforcement activities and evaluate programs. The database is also used by NIOSH to monitor the effectiveness of dust controls, plan and undertake dust control research initiatives, and assess trends in disease prevention. The underlying purpose is to monitor compliance with mandatory concentration limits for respirable coal mine dust to ensure healthful work environments. Likewise, information provided by mine operators in respirable coal mine dust control plans is not collected for the purpose of publication. Although dust data cards are not published, data from the cards is in an MSHA respirable dust database that is available on MSHA's web site.

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

MSHA associates no federally sponsored forms with this IC and seeks approval to not display the expiration date for OMB approval of this IC on the dust data card under existing IC 1219-0011. Dust sampling cassettes and the accompanying dust data cards are manufactured by the Mine Safety Appliances Company (MSA) for sale to coal mine operators, and mine operators typically use them. MSHA, however, has no direct control over the production or distribution of the cassettes and data cards. MSA has accommodated requests to include a public burden statement on the dust card. See Appendix.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

There are no certification exceptions identified with this IC.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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

Appendix

Cassette Number
51 183945

Dust Data Card
1. Cassette Number
51 183945

2. Mine ID Number 3. Contractor Code

4. Mine Name

5. Company Name

6. Date Sampled 7A. Sampling Start Time
Mo. Da. Yr. (24 hr. clock)

7B. Sampling Time (min) 8. Tons This Shift

9. Type of Sample (select one)
(1) designated occ (ug)
(2) nondesignated occ (ug)
(3) designated area (ug)
(4) designated work position (sur)
(5) part 90 miner

10. MMU DA/SA 11. Occ Code

12. Part 90 Miner Sampled
MIIN

13. Certified Person: NOTICE - Knowingly making any false statement, representation, or certification on this document is a violation of the federal criminal code which may be punished by a fine or by imprisonment or both.
MIIN

Signature
 Laboratory Analysis
Final Weight
Initial Weight
0.500881 gram 1/25/2012 L

Weighed By OSP Checked By Void Code

Date Processed

AFTER SAMPLING, PLACE THIS COPY AND THE USED CASSETTE INTO THE SECURITY BAG PROVIDED.

Inspector Form

Dust Data Card
1. Cassette Number
57 997078

2. Mine ID Number 3. Contractor Code

4. Mine Name

5. Company Name

6. Date Sampled 7A. Sampling Start Time
Mo. Da. Yr. (24 hr. clock)

7B. Sampling Time (min) 8. Tons This Shift

9. Type of Sample (select one)
(1) designated occ (ug)
(2) nondesignated occ (ug)
(3) designated area (ug)
(4) designated work position (sur)
(5) part 90 miner

10. MMU DA/SA 11. Occ Code

12. Part 90 Miner Sampled
MIIN

13. Certified Person: NOTICE - Knowingly making any false statement, representation, or certification on this document is a violation of the federal criminal code which may be punished by a fine or by imprisonment or both.
MIIN

Signature
 Laboratory Analysis
Final Weight
Initial Weight
0.513343 gram 4/24/2012 L

Weighed By OSP Checked By Void Code

Date Processed

SEND THIS COPY AND THE USED CASSETTE TO MSHA AFTER USING FOR COAL MINE DUST SAMPLING ONLY.

Operator Form

30 CFR Parts 70, 71, and 90 require coal mine operators to collect and submit dust samples to MSHA for analysis to determine compliance with federal coal mine dust standards. 30 CFR §§ 70.209, 71.209 and 90.209 require dust data cards submitted with each dust sample to be completed by persons certified by MSHA to take dust samples.

The public reporting burden for this collection of information is estimated to average 63 minutes per response, including the time for sample unit preparation, on-site monitoring, disassembly and cleanup, and completion of the dust data card. Send comments regarding this estimated response time or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Program Evaluation and Information Resources, Mine Safety and Health Administration, U.S. Department of Labor, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of Management and Budget, Paperwork Reduction Project (1219-0011), Washington, DC 20503.

In compliance with the Privacy Act of 1974, the following information is provided: solicitation of the information requested on this form, including the use of the Miner Individual Identification Number (MINN) for certified individuals and designated miners, is authorized by 30 CFR Parts 70, 71 and 90. The data will be used to determine compliance with federal coal mine dust standards and sampling requirements.

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB APPROVAL #1219-0011