SUPPORTING STATEMENT

Claim Adjudication Process for Alleged Presence of Pneumoconiosis
Conducted by the U.S. Department of Labor
OMB No. 1240-0023

This ICR seeks OMB approval under the PRA to incorporate proposed regulatory updates to the existing approved Claim Adjudication Process for Alleged Presence of Pneumoconiosis information collection requirements. Specifically, in a NPRM published in the Federal Register on June 13, 2013 (78 FR 35575), DOL proposed both updates to its existing analog film radiograph standards and new parallel standards for digital radiographs. The DOL believes the proposed rule, if adopted in final, would not impose a new information collection, change the actual information collected, or the estimated information collection (paperwork) burdens imposed on the public; however, the additional format option could be considered a change to the existing information collection, as currently approved under the PRA.

A. Justification.

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

This ICR is necessary to comply with 5 CFR 1320.11. The information collections are being revised to incorporate updated analog film radiograph standards and new parallel standards for digital radiographs that DOL proposed in an NPRM issued on June 13, 2013 (78 FR 35575). If the proposed rules were adopted in final, physicians obtaining x-rays on digital radiography systems would submit the radiograph in electronic format to the OWCP in conjunction with claims for Federal black lung benefits. The DOL believes the information collections in the proposed rule would not impose a new information collection, change the actual information collected, or the estimated information collection (paperwork) burdens imposed on the public; however, the additional format option could be considered a change to the existing information collection, as currently approved under the PRA.

When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) is required to schedule a series of four diagnostic tests to help establish eligibility for black lung benefits. Each of the diagnostic tests has its own form that sets forth the medical results. In the supporting statement, when necessary, each form is explained separately.

CM-933. One diagnostic test authorized by DCMWC is the chest x-ray. The results of the x-ray may be used to establish the presence of pneumoconiosis, a criterion for entitlement. The Black Lung Benefits Act of 1977 as amended, 30 U.S.C. 901 et. seq. and 20 CFR 718.102 set forth criteria for the administration and interpretation of x-rays. The CM-933 is used to classify the physician's findings.

CM-933b. Once a diagnostic X-ray is received with the accompanying interpretation form, the x-ray is sent for a quality reread to be certain that the x-ray is of acceptable quality. The quality of the x-ray is indicated on the CM-933b. The Black Lung Benefits Act of 1977 as amended, 30 U.S.C. 901 et. seq. and 20 CFR 718.102 set forth criteria for performance of x-rays.

CM-988. Part of the complete pulmonary examination that DCMWC is required to offer to all miner applicants is the physical examination, which can be used to establish the presence of pneumoconiosis, total disability, and the causal relationship between the miner's coal mine employment and pneumoconiosis, all of which are criteria for entitlement. The CM-988 provides all information concerning the physical examination required by DOL. The Black Lung Benefits Act of 1977 as amended, 30 U.S.C. 901 et. seq. and 20 CFR 718.104 set forth criteria for completion of the physical examination report.

CM-1159. The arterial blood gas study is authorized by DCMWC and may be used to establish total disability, a criterion for entitlement. This form was designed to report the results of the arterial blood gas studies as required by the regulations. The Black Lung Benefits Act of 1977 as amended, 30 U.S.C. 901 et. seq. and 20 CFR 718.105 set forth criteria for performance of blood gas study.

CM-2907. This form is used to report the results of the ventilatory or pulmonary functions study. The results of the study can be used to establish total disability, a criterion for entitlement. The Black Lung Benefits Act of 1977 as amended, 30 U.S.C. 901 et. seq. and 20 CFR 718.103 set forth specific standards governing performance of the study.

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 claims examiner partially completes the forms and sends them to the appropriate medical provider. The provider completes the forms and submits them with the appropriate documentation to a specific DCMWC district office. The claims examiner reviews the completed forms along with the medical documentation to determine if the results indicate that the miner meets the eligibility criteria for black lung benefits.

CM-933 & 933b. The CM-933 is sent to the physician authorized to perform diagnostic x-rays for the Department. The physician completes the form and submits it with the actual x-ray (either a film if performed using analog film equipment or an electronic file if performed using a digital radiography system) to a specific DCMWC district office. For claims filed after January 1, 1982, and before January 20, 2001, the claims examiner sends another partially completed CM-933 with the x-ray to the physician (a "B-reader") who is rereading the x-ray for quality and content.

Since the regulations require that the x-ray should be of suitable quality for proper classification of pneumoconiosis, the CM-933b is used to record only the B-reader's interpretation of the x-ray’s quality. It is completed by B-readers only when reading x-rays of miners who filed claims prior to January 1, 1982, the effective date of the Black Lung Amendments of 1981, or after January 19, 2001.

Both forms were developed to show the information needed by DOL and the criteria used for the purpose of coding for DOL. The completed form is evaluated to determine whether the miner has pneumoconiosis, a criterion for entitlement. If this information were not gathered, determinations on the existence of pneumoconiosis could not be made.

CM-988. The form is sent to the physician authorized to perform the physical examination for the Department. The completed form is evaluated by the claims examiner for the purpose of establishing the presence of total disability, and the causal relationship between the miner's coal mine employment and pneumoconiosis. If this information were not gathered, important evidence that could be used to establish disease, disability, and causality (all conditions of entitlement) would be unavailable to the adjudication officer.

CM-1159. The form is sent to and completed by physicians authorized to perform diagnostic arterial blood gas studies. The completed report together with the original medical documentation is reviewed by the claims examiner to determine if the results establish total disability as defined in the regulations. If this information were not gathered, determinations on total disability could not be made using this required test.

CM-2907. The form is sent to and completed by physicians authorized to perform the ventilatory test. The actual tracings, including the flow-volume loop, must be returned with the completed form. The regulations specify that the ventilatory study is one method that may be used to establish total disability, and requires the Department to offer the test. If this information were not gathered, determinations on total disability could not be made using this required test.

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.

In accordance with the Government Paperwork Elimination Act (GPEA), these forms are impractical for electronic submission. It is required that medical tests be attached to the forms. Sending the form electronically and the original medical test separately is impractical because of the potential for the forms and the required attachments to become separated. However, the forms are available for downloading from the DCMWC website as PDF documents for those physicians who need them. They may be completed on-screen, printed, signed, and mailed with the required test results. The forms can be downloaded from http://www.dol.gov/owcp/regs/compliance/cm-933.pdf, http://www.dol.gov/owcp/regs/compliance/cm-933b.pdf, http://www.dol.gov/owcp/regs/compliance/cm-2907.pdf, http://www.dol.gov/owcp/regs/compliance/cm-1159.pdf, and http://www.dol.gov/owcp/regs/compliance/cm-988.pdf.

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.

These forms all record information solicited by the Program such that it conforms to regulatory standards for diagnostic medical tests. Since the information requested on these forms specifically relates to eligibility criteria for the Black Lung Program, i.e., presence of pneumoconiosis, total disability, and causal relationship between coal mine employment and pneumoconiosis, no identical information is requested by other programs.

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

Collection of this information does not involve small businesses or other small entities so this information collection does not have a significant impact on a substantial number of small entities.

6. Describe the consequence of 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.

Information for Forms CM-933, CM-933b, CM-988, CM-1159 and CM-2907 is collected one time: to report the results of a required medical examination. If the collection were done less frequently, eligibility for benefits under the Black Lung Act could not be established.

7. Explain any special circumstance required in the conduct of this information collection:

There are no special conditions required in the conduct of this information collection.

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

The CM-933, 933b, and 1159 have been in use since 1981 with no adverse comments received. The CM-2907 is very similar to the form it replaced in 2004, the CM-907, and it too has elicited no adverse comments. The CM-988 has been revised for the current

clearance in order to allow physicians to more clearly identify pulmonary and non-pulmonary diagnoses. Program staff maintains ongoing consultations with the respondents regarding medical test information.

In a NPRM published in the Federal Register on June 13, 2013 (78 FR 35575), DOL proposed both updates to its existing analog film radiograph standards and new parallel standards for digital radiographs. The NPRM announced a 60-day comment period on the requirements.

A Federal Register Notice announcing a 30-day public comment period on the proposed submission of radiographs that accompany the CM-933 x-ray interpretation form in a new format (i.e., as electronic data when the x-ray is produced on a digital radiography system) was published on November 19, 2013 (78 FR 69449). Comments are to be submitted to OMB, in accordance with 5 CFR 1320.11. DOL has requested commenters to send a courtesy copy to the Department.

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

There are no plans to provide any payment or gift to respondents.

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

The attached Privacy Act System Notices (ESA-6 and ESA-30) provide confidentiality of information collection involving a claimant's medical record.

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.

This collection contains 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 make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information.

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The number of responses represents the approximate number of new miner applications and refiling during the past year, plus the estimated number of retestings due to invalid test results caused by technical or patient problems, plus retesting ordered prior to a formal hearing. The public burden estimate of this information collection totals approximately 5,840 hours. This burden is based on the submission of about 24,000 responses and was calculated as follows:

FORM	RESPONSES	PER RESPONSE	HOURS
CM-933	4,800	5 min.	400
CM-933b	4,800	3 min.	240
CM-988	4,800	40 min.	3,200
CM-1159	4,800	15 min.	1,200
CM-2907	4,800	10 min.	800

Total	24,000	Total	5,840

The estimated annualized cost to respondents to provide this information is $532,024 (5,840 hours x $91.10 per hour). This hourly wage for physicians (internists) is taken from the May 2010 National Occupational Employment and Wage Estimates and updated in May 2011, published by the Bureau of Labor Statistics (http://www.bls.gov/oes/current/oes291063.htm.) The BLS occupational category 29-1063 for internists is appropriate because most physicians who perform black lung testing are board-certified in internal medicine.

Any estimated annualized cost to respondents for providing the requested information is offset by direct payment to the respondent for the usual and customary cost for the medical testing and reports. The Program is required to offer a complete pulmonary evaluation to every miner claimant at the Program's expense. The Program pays the physician for the medical tests, examinations, and for other expenses, which include mailing charges. The physician reports these test results on the appropriate forms.
The estimated response time for the CM-988 has been adjusted upward by 10 minutes per response because of changes in the report form, and the estimated time for the CM-2907 has been adjusted downward by 10 minutes per response because DCMWC experience has shown that the pulmonary functions testing equipment currently in use is more automated than older equipment. These two adjustments do not affect the total response times or costs.

13. Annual Costs to Respondents (capital/start-up & operation and maintenance).

Because all costs including postage are reimbursed, there are no operation and maintenance costs.

14. Provide estimates of annualized cost to the Federal government.

The estimated annualized cost to the Program is $2,908,239.75 which includes Program costs associated with printing, mailing and processing the 24,000 forms annually, plus the cost of the test procedures. The testing costs include the professional fees charged by the examining physician or, in the case of the CM-933

and CM-933b, by the radiologist. The DOL employee cost reflects a level of GS-12 Step 5, or $37.37. (This figure is taken from the Office of Personnel Management's 2011 General Schedule, found here: http://www.opm.gov/oca/11tables/html/RUS_h.asp.) This cost estimate is higher than that of the current collection, which also included the annualized cost to respondents in Item 12 as part of the Program cost because physicians are paid a fee by the Department of Labor for each test they perform.

The associated Program costs were figured as follows:

Mailing 24,000 x $1.48 = **$35,520.00**
Postage and large envelope [$1.38 + $0.10 = $1.48] to mail

CM-933 **$222,458.00**

The cost for an average annual usage of 4,800 forms is estimated as follows:

- printing $500.00
- cost of testing $207,010.00
- processing $14,948.00
  GS-12/5 spends five minutes processing each form.
  1/12 x 4,800 x $37.37 = $ 14,948.00

CM-933b $**86,620.60**

The cost for an average annual usage of 4,800 forms is estimated as follows:

- printing $500.00
- cost of testing $71,172.60
- processing $14,948.00
  GS-12/5 spends five minutes processing each form.
  1 /12 x 4,800 x $37.37 = $14,948.00

CM-988 $**1,445,779.90**

The cost for an average annual usage of 4,800 forms is estimated as follows:

- printing $700.00
- cost of testing $1,325,495.90
- processing $119,584.00
  A GS-12/5 spends 40 minutes processing each form.
  2/3 x 4,800 x $32.73 = $ 119,584.00

CM-1159 $**669,814.10**

The cost for an average annual usage of 4,800 forms is estimated as follows:

- printing $500.00
- cost of testing $653,466.10
- processing $14,948.00
  GS-12/5 spends five minutes processing each form.
  1 /12 x 4,800 x $37.37 = $ 14,948.00

CM-2907 $**448,047.15**

The cost for an average annual usage of 4,800 forms is estimated as follows:

- printing $500.00
- cost of testing $417,651.15
- processing $29,896.00
  GS-12/5 spends ten minutes processing each form.
  1/6 x 4,800 x $37.37 = $29,896.00

15. Explain the reasons for any program changes or adjustments.

This ICR seeks no program changes or adjustments affecting burden. The information collections are being revised to incorporate updated analog film radiograph standards and new parallel standards for digital radiographs that DOL proposed in an NPRM issued on June 13, 2013 (78 FR 35575). If the proposed rules were adopted in final, physicians obtaining x-rays on digital radiography systems would submit the radiograph in electronic format to the OWCP in conjunction with claims for Federal black lung benefits. The DOL believes the NPRM would not impose a new information collection, change the actual information collected, or the estimated information collection (paperwork) burdens imposed on the; however, the additional format option could be considered a change to the existing information collection, as currently approved under the PRA..

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 information, completion of report, publication dates, and other actions.

There are no plans to publish this collection of information.

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.

This ICR does not seek a waiver from the requirement to display the expiration date.

18. Explain each exception to the certification statement identified in ROCIS.

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.