

**SUPPORTING STATEMENT**

**Operator Response to Schedule for Submission of  
Additional Evidence and Operator Response to Notice of Claim  
1240-0033**

**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.**

The Office of Workers' Compensation Programs (OWCP) administers the Black Lung Benefits Act (BLBA), 30 USC 901 *et al. seq.* The statute provides for the payment of benefits to eligible coal miners and survivors by last coal mine operator for whom the miner had worked at least one year, or by the Black Lung Disability Trust Fund in the event no responsible coal mine operator can be identified. The forms approved by OMB under this collection are:

**CM-2970** - This form is required by 20 CFR 725.412, and is used by the District Director to define and narrow issues regarding the coal mine operator's liability and the claimant's eligibility for benefits.

**CM-2970a** - When the Division of Coal Mine Workers' Compensation (DCMWC) receives an application for benefits, that applicant is considered potentially eligible for Black Lung benefits until the claim adjudication processes is complete and a proposed decision is issued. This form is used by the District Director to assess the acceptance or denial of potential liability for payment of benefits of coal operators and their insurers.

**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.**

**CM-2970** - The coal mine operator returns this form to controvert their liability and the claimant's entitlement to benefits. The

Operator Response to Schedule for Submission  
Of Additional Evidence and Operator Response to  
Notice of Claim  
1240-0033  
March 2017

form states the issues the operator is contesting. The claims staff acknowledges receipt of the form and establishes with the operator a deadline for submission of evidence to support the disagreement. Failure of the operator to respond to the CM-2970 is deemed an acceptance of the liability. The information collected on this form is used by the District Director to determine whether or not the coal mine operator agrees with the District Director's assessment of the operator's liability for payment of benefits and the claimant's eligibility for benefits.

Once the Agency issues a proposed decision and order approving eligibility or the claimant disagrees with a decision denying eligibility, the Schedule for Submission of Additional Evidence (CM-2970), which names the responsible operator, is sent to the coal mine operator(s) to give them the opportunity to agree with or to controvert liability. To disagree with liability and/or the claimant's entitlement to black lung benefits, the responsible operator must respond within thirty days of receipt. 30 USC 901 *et. seq.* and 20 CFR 725.412 govern this response for claims filed after January 19, 2001.

**CM-2970a** - For claims filed after January 19, 2001, the CM-2970a will be sent to all potential responsible coal mine operators. The claims staff sends the CM-2970a to the operator with the notice of claim. The returned CM-2970a is used as the operator's notification to DCMWC of the acceptance or controversion of potential liability. If the operator controverts liability, the claims staff is alerted to examine more closely that aspect of claims development. As a result, it is possible for a different operator to be identified as potentially responsible prior to the determination of eligibility. If the operator does not controvert within 30 days of notification, the potential responsible operator will not be allowed to contest liability for the specific reasons set forth on this form. The information collected on this form is used by the District Director to determine the coal mine operator's response to being named potentially liable for the payment of benefits.

If a coal mine operator has been identified as potentially liable for payment of those benefits, the responsible operator is sent notification of that claim. The CM-2970a, sent with that notification, gives the operator an opportunity to controvert their liability and the applicant's eligibility. The operator

Operator Response to Schedule for Submission  
Of Additional Evidence and Operator Response to  
Notice of Claim  
1240-0033  
March 2017

must return the completed form within 30 days of receipt contesting liability, or s/he will not be allowed to contest possible liability for the reasons set forth on this form as the responsible operator. The CM-2970a may also be sent to a potentially liable operator when a claimant disagrees with a potential denial and that claim has been appealed. 30 USC 901 *et. seq.* and 20 CFR 725.407 & .408 necessitate the notification to the operator and contain the statutory and regulatory requirements for the identification and notification of the coal mine operator for claims filed after January 19, 2001.

**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, the CM-2970 and CM-2970a are interactive and are available on the Internet for downloading at <http://www.dol.gov/owcp/regs/compliance/cm-2970.pdf> and <http://www.dol.gov/owcp/regs/compliance/cm-2970a.pdf>. To date, no forms have been electronically submitted.

**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.**

Since the information requested on each of these forms specifically relates to the Black Lung Program, no other OWCP Programs or Federal agency has similar requirements.

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

Many of the identified coal companies are considered small businesses. The use of a concise form helps the company identify the reason(s) for controversion and minimizes the burden of response. This information collection does not have a significant economic 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.**

This information is requested only once, at the time prescribed in the regulations. If it were not collected, the coal mine operators would not be afforded due process.

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

There are no special circumstances for conducting 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.**

A Federal Register Notice inviting public comment was published on November 9, 2016 (81FR78863). No public comments were received.

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

There are no payments or gifts to respondents to furnish the information.

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

Privacy Act System of Records, DOL/OWCP-2, published at 81 Federal Register 25858 (April 29, 2016), or as updated and republished provide confidentiality of information collection involving black lung claimant files and computerized data.

**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 on this form.

**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.

The estimated total burden to the coal mine operators remains at 2000 hours. It takes about 10 minutes to complete and mail the 4,800 CM-2970 forms and 15 minutes to complete and mail each of the 4,800 CM-2970a. The operators typically have the needed information readily available in their computer systems.

Estimated Annualized Respondent Hour and Cost Burdens

Form	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Avg. Burden per Response (In Hrs.)	Total Burden Hours	Hourly Wage Rate*	Total Cost Burden
CM-2970	4,800	1	4,800	10/60	800	57.44	45,952
CM-2970a	4,800	1	4,800	15/60	1,200	57.44	68,928

Operator Response to Schedule for Submission  
 Of Additional Evidence and Operator Response to  
 Notice of Claim  
 1240-0033  
 March 2017

TOTAL	4,800	--	9,600	--	2,000	57.44	114,880
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\*This salary for General and Operation Manager is taken from the May 2015 Occupational Employment and Wages at <https://www.bls.gov/oes/current/oes111021.htm>

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

The operation and maintenance cost are 47¢ for postage and 3¢ for envelope which will be 50¢ (50¢ x 9,600 responses = \$4,800.00)

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

The estimated cost to the Federal Government for these 9,600 forms is approximately \$34,744.00. The cost is figured as follows:

- a. Estimated mailing cost: \$ 4,800.00  
 (47¢ plus 3¢ per envelope for a total of 50¢ per form)
- b. Estimated processing cost: \$29,944.00  
 [one CE GS-12/4 spends about 5 minutes (12 forms per hour) evaluating each form  
 $\$37.43 \times 9,600/12 = \$29,944$ ]

This hourly salary is taken from the FY 2016 Salary/Wages at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/RUS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/RUS_h.pdf)

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

Burden hours have remained unchanged at 2,000 hours. The Annual cost of burden increase from \$4,704.00 to \$4,800.00 is due to an increase in postage costs.

**16. For collections of information whose results will be**

Operator Response to Schedule for Submission  
Of Additional Evidence and Operator Response to  
Notice of Claim  
1240-0033  
March 2017

**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 data collected on this form.

**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 information collection request does not seek a waiver from the requirement to display the expiration date.

**18. Explain each exception to the certification statement.**

There are no exceptions to the certification statement.

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

Statistical methods are not used in these collections of information.