

SUPPORTING STATEMENT

Operator Response to Schedule for the Submission of Additional Evidence and Operator Response to Notice of Claim OMB NO. 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. seq.* The statute provides for the payment of benefits to eligible coal miners and survivors by a coal mine operator who employed the miner (or its insurance carrier) or the Black Lung Disability Trust Fund if no responsible coal mine operator can be identified. The information collected on forms CM-2970 and CM-2970a helps the OWCP District Director adjudicating a benefits claim to correctly identify the liable party, determine whether the named operator accepts liability, and narrow the issues contested between the liable party and the claimant. The collection of this information is required by 20 CFR 725.408 and 725.412.

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 -- Operator Response to the Schedule for Submission of Additional Evidence. The District Director uses the information collected on this form to determine whether the named coal mine operator agrees with the District Director's (1) designation of the operator as liable for any benefits payable, and (2) determination regarding the claimant's eligibility for benefits. After the District Director develops initial evidence in a claim, he or she issues a Schedule for the Submission of Additional Evidence naming the coal mine operator the District Director believes is liable for the claim and assessing the claimant's entitlement to benefits. If the named coal mine operator does not respond to the Schedule within thirty days, that operator is deemed to accept liability for the claim. 20 CFR 725.412(a). The District Director includes Form CM-2970 with the Schedule to give the named coal mine operator a method to controvert both its liability and the claimant's entitlement to benefits.

CM-2970a – Operator Response to Notice of Claim. The information collected on this form is used by the District Director to determine whether a coal mine operator who employed the miner may be designated as the liable operator responsible for paying any benefits due on a claim. In developing a claim, the District Director sends a Notice of Claim to any coal mine operator who might be liable for the payment of benefits. If a notified coal mine operator does not accept liability, the operator is required to complete a CM-2970a and controvert liability on several

specific factual grounds that would, if demonstrated, relieve the operator of liability. 20 CFR 725.408(a)(2). All of this information is within the operator's control (e.g., information about the operator's business, employment of the miner, and financial capacity to pay benefits). The operator must return the completed form within thirty days of receipt of the Notice of Claim to contest liability, or it is not allowed to contest its liability on the grounds set forth on this form. 20 CFR 725.408. The District Director includes a form CM-2970 with the Notice so that the operator can accept or contest liability.

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>. These links are highlighted on the DCMWC web site. Both forms can be completed on-screen, uploaded to a local drive and then submitted through the COAL Mine Portal at <https://eclaimant.dol-esa.gov/bl>. Both forms can also be printed, hand completed, and mailed to the Central Mailroom.

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.

Some of the identified coal companies are considered small businesses. The use of concise forms helps minimize the response burden by requiring only that information necessary to identify the liable coal mine operator and protecting the company's right to controvert liability. 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 District Director would not be able to determine the party liable for the claim or know whether the named responsible operator accepted that liability.

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

There are no special circumstances for 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.

9. A Federal Register Notice inviting public comment was published on March 12, 2020 (85 FR 14507). No comments were received. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Respondents do not receive gifts or payments to furnish the requested information.

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

Since the completed forms are maintained in the claimant's case file, the information collected is covered by the Privacy Act System of Records, DOL/OWCP-2 and DOL/OWCP-9, published at 81 Federal Register 25765, 25858 and 25866 (April 29, 2016), or as updated and republished.

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. The statement should:

The estimated total burden to the coal mine operators is 2,042 hours. It takes about 10 minutes to complete and submit the 4,900 CM-2970 forms and 15 minutes to complete and submit each of the 4,900 CM-2970a. The operators typically have the needed information readily available in their computer systems.

<u>Form</u>	<u>Number</u>	<u>Minutes Each</u>	<u>Total Hours</u>
CM-2970	4,900	10	817 (816.66 rounded up)
CM-2970a	4,900	15	1,225

The estimated annualized cost to the respondents is \$17.19 per hour. This hourly wage is from the Bureau of Labor Statistics, National Occupational Employment and Wage Estimates, under the heading Office and Administrative Support Occupations <https://www.bls.gov/oes/current/oes430000.htm>. The estimated annualized cost to respondents to provide this information is approximately \$35,102.00.

$$\$17.19 \times 2,042 \text{ hours} = \$35,102.00 \text{ } (\$35,101.98 \text{ rounded up})$$

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

The operation and maintenance costs are estimated to be \$2,842.00. This is based on 55¢ for each postage stamp and 3¢ per envelope. Approximately half of both forms are submitted electronically through the COAL Mine Portal (2,450 + 2,450 respectively).

$$4,900 \times .58 = \$2,842.00$$

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

The estimated cost to the Federal Government for these 9,800 forms is approximately \$38,710.00. The cost is figured as follows:

- a. Estimated mailing cost: \$ 5,684.00
(55¢ plus 3¢ per envelope for a total of 58¢ per form)
.58 X 9,800 = \$5,684.00
- b. Estimated processing cost: \$33,026.00
(one CE GS-12/4 spends about 5 minutes (12 forms per hour) evaluating each form
\$40.44 x 9,800/12 = \$33,026.00)

This hourly salary is taken from the FY 2020 Salary/Wages at: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS_h.pdf.

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

There is a slight increase in the number of respondent burden hours, from 2,000 to 2,042 due to more CM-2970 and CM-2970a forms.

The respondents cost burden has enlarged from \$33,080 to \$35,102 due to the increased number of CM-2970 and CM-2970a.

The Privacy Act Statement on both forms was updated. The Public Burden Statement on CM-2970a was updated. The filing options were added to each form. A few minor aesthetic changes were made to both forms.

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.

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.