

SUPPORTING STATEMENT

**Roentgenographic Interpretation, Roentgenographic Quality Rereading, Medical History and Examination for Coal Mine Workers' Pneumoconiosis, Report of Arterial Blood Gas Study, and Report of Ventilatory Study
1240-0023**

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.

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. Black Lung Benefits Act section 508 authorizes the Secretary to issue implementing regulations regarding the payment of these benefits, among other items. See 30 U.S.C. § 957. Regulations CFR 718, subpart B establishes the relevant medical evidence development criteria regarding coal miners who apply for Black Lung Benefits Act (BLBA) 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.

Roentgenographic Interpretation (Form 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. Regulations 20 CFR § 718.102 sets forth criteria for the administration and interpretation of x-rays. Form CM-933 is used to classify the physician's findings.

Roentgenographic Quality Rereading (Form 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. Regulations 20 CFR § 718.102 sets forth criteria for performance of x-rays.

Medical History and Examination for Coal Mine Workers' Pneumoconiosis (Form CM-988E) - 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. Regulations 20 CFR § 718.104 sets forth criteria for completion of the physical examination report.

Report of Arterial Blood Gas Study (Form 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. Regulations 20 CFR § 718.105 sets forth criteria for performance of blood gas study.

Report of Ventilatory Study (Form 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. Regulations 20 CFR § 718.103 sets 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 staff 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 staff 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 film to a specific DCMWC district office. For claims filed after January 1, 1982, and before January 20, 2001, the claims staff sends another partially completed CM-933b with the x-ray to the physician (a "B-reader") who is rereading the x-ray film for quality and content.

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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 film's quality. It is completed by B-readers only when reading x-ray films 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, to determine only the quality of the x-ray film.

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 staff 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 staff 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/dcmwc/regs/compliance/blforms.htm>.

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 A.2 above.

There is no similar approved form used by DCMWC.

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.

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 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 Notification inviting public comment was published on February 10, 2017 (82FR10411). No comments were received.

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

Respondents do not receive any 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.

Forms CM-933, CM-933b, CM-988, CM-2907, and CM-1159 include a Privacy Act Notice (PAN) explaining that information will be used to determine eligibility for and the amount of benefits payable. The PAN also explains that the information may be used by other agencies or persons in handling matters relating to the subject matter of the claim.

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 these forms.

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.

The number of responses represents the approximate number of new miner applications and refiling during the past year, plus the estimated number of re-testings 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 6,693 hours. This burden is based on the submission of about 27,500 responses and was calculated as follows:

Form	Time to Complete	Frequency of Response	Number of Respondents	Number of Responses	Hours Burden
CM-933	5 min	occasion	5,500	5,500	459
CM-933b	3 min	occasion	5,500	5,500	275
CM-988	40 min	occasion	5,500	5,500	3,667
CM-1159	15 min	occasion	5,500	5,500	1,375
CM-2907	10 min	occasion	5,500	5,500	917
Totals			27,500	27,500	6,693

The estimated annualized cost to respondents to provide this information is \$632,355.00 (rounded up) (6,693 hours x \$94.48 per hour = \$632,354.64). This hourly wage for physicians (internists) is taken from the May 2015 National Occupational Employment and Wage Estimates, 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.

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 \$5,569,503.05 which includes Program costs associated with mailing and processing the 27,500 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 \$39.19. (This figure is taken from the Office of Personnel Management's 2017 General Schedule, found here:https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS_h.pdf.)

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	27,500 x \$2.22 =	\$61,050.00
postage and large envelope	[\$2.12 + \$0.10 = \$2.22] to mail	
CM-933		\$350,303.71

The cost for an average annual usage of 5,500 forms is estimated as follows:

cost of testing	\$332,420.00
processing	\$17,883.71
GS-12/5 spends five minutes processing each form (5/60) x 5,500 x \$39.19 = \$ 17,883.71	
CM-933b	\$125,067.25

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The cost for an average annual usage of 5,500 forms is estimated as follows:

cost of testing	\$114,290.00
processing	\$10,777.25

GS-12/5 spends three minutes processing each form
 $(3/60) \times 5,500 \times \$39.19 = \$ 10,777.25$

CM-988 **\$2,893,696.67**

The cost for an average annual usage of 5,500 forms is estimated as follows:

cost of testing	\$2,750,000.00
processing	\$143,696.67

A GS-12/5 spends forty minutes processing each form
 $(40/60) \times 5,500 \times \$39.19 = \$ 143,696.67$

CM-1159 **\$1,103,231.25**

The cost for an average annual usage of 5,500 forms is estimated as follows:

cost of testing	\$1,049,345.00
processing	\$53,886.25

GS-12/5 spends fifteen minutes processing each form
 $(15/60) \times 5,500 \times \$39.19 = \$ 53,886.25$

CM-2907 **\$1,036,154.17**

The cost for an average annual usage of 5,500 forms is estimated as follows:

cost of testing	\$1,000,230.00
processing	\$35,924.17

GS-12/5 spends ten minutes processing each form
 $(10/60) \times 5,500 \times \$39.19 = \$35,924.17$

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

The annual number of responses changed to 27,500 from 24,000, estimated total burden hours changed to 6,693 hours from 5,840 hours due to the increase of completing and mailing each form.

The following minor changes were made to the forms:

CM-933

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"Note" section - updated to remove reference to disclosing the SSN.

Instructions - Changed reference from "SSN" to "DOL's Case ID Number"

1.B. Changed to "DOL's Case ID Number"

3.D. Changed "3m" to "3mm"

4.D. Changed blocks "M o. D ay Y r." to "M M D D Y Y"

5.C. Certification Statement updated

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Privacy Act Notice updated

Page 3

Codes under Technical Quality updated

Definitions under Large Opacities updated

Symbols - updated

CM-933b

"Note" section - updated to remove reference to disclosing the SSN.

Instructions - Changed reference from "SSN" to "DOL's Case ID Number"

1.C. Changed to "DOL's Case ID Number"

1.D. lower case g and r

2.B. removed "o" and ">>" added "cn" and "tb"

3.C. Certification Statement updated

Privacy Act Statement changed to Privacy Act Notice

Privacy Act Notice updated

Accommodation Statement changed to Accommodation Notice - removed "your" and added "the"

Page 2

Removed "2000" and added "2011"

1D Definitions under Technical Quality - added "Acceptable, with" removed "Poor", added "for classification purposes" after "Unacceptable"

2B - lower case "s" for the "symbols"

2B Definitions - removed "pneumoconiotic", added ": thoracic malignances excluding mesothelioma", removed " of the lung or pleura", added "(e.g. granuloma) or node", added "pleura", removed "definite", added " non-calcified, added "border" (twice), removed "outline", capitalized Kerley", removed "an", added "the", corrected spelling of "interlobar", added "disease of"

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"Note" section updated
"Instructions" updated to remove reference to SSN
2. Changed to "DOL's Case ID Number"
6. added reference to inches, stocking feet, and no shoes
7. added reference to pounds
10. added "or" between "bronchodilators," and "coughing"
13. removed "or" between "Physician" and "administering"
Certification statement - added reference to "conviction"
Privacy Act Statement renamed Privacy Act Notice
Privacy Act Notice paragraph updated
Accommodation Statement renamed Notice

CM-1159

"Note" section updated
"Instructions" updated to remove hyphens between "blood" and "gas"
2. Changed to "DOL's Case ID Number"
4. added reference to "inches" and "pounds"
Added item 8. requesting miner's last acute respiratory or cardiac illness
Changed 8.a. to a. and added "During" before "Exercise"
8.b. added "Miner's" before "Pulse" and added "During" before "*Exercise"
9. removed "Be sure to also annotate your findings in Block D5 of the CM-988, if applicable."
13. added "Supervising Test" after "Physician"
14. updated Physician's Signature certification statement to include "conviction" reference

Page 2

Changed P02 to p02 under (1)
Changed all "Above 50" to "50 and above"
Changed P02 to p02 under (3)
Privacy Act Statement renamed Privacy Act Notice
Privacy Act Notice paragraph updated
Accommodation Statement renamed Notice

CM-988

"Note" section updated
2. changed to "DOL's Case ID Number"
3. changed "No" to "Number"
6. changed "no" to "number"
7. changed "no." to "number"

B. updated Employment History information
1. and 2. Changed "mm/yy" to "mm/yyyy"

1.a. added title, description of physical requirements, and level of exertion

Added 1.d. "Did the miner regularly use personal protective equipment? Yes No, If yes, what type of personal protective equipment did the miner use?"

Page 2

2.a. removed "Other" and replaced with "Emphysema"

2.a. removed "Other" and replaced with "Stroke"

D.1. capitalized "Complaints" and "Symptoms"

Page 3

D.2. capitalized "Complaints"

D.3. capitalized "Treatment"

D.4. lower case "your", "physical" and "examination"

D.4. added "/pulmonary" after "respiratory", referenced "inches" for height, and "pounds", and "/pulmonary" after respiratory

D.5. capitalized "Diagnostic" and "Testing", added "in reaching" before "your medical"

Page 4

D.6. reworded this section

D.6a. reworded this section

D.7. reworded this section

D.8. reworded this section

D.8b. reworded this section

Page 5

D.8c. reworded this section

D.9. reworded this section

F. reworded to include conviction language

Privacy Act Statement renamed Privacy Act Notice

Privacy Act Notice paragraph updated

Accommodation Statement renamed Notice

CM-988a

Removed "THE NEWLY DESIGNED" from top of document

First paragraph - deleted "causality" and replaced with "cause", removed "as well" after "arterial blood gas test", added "minor" before "revisions.", removed "that should make it easier for you to complete the form and provide a reasoned medical opinion regarding the patient's pulmonary diagnosis and disability, if applicable", removed "a" after "that" and added "you provide a" before "a response", and removed "be provided" before "to each".

Second paragraph - added "(usually the miner's most recent job of at least one-year's duration)," after "coal mine job" and removed "Line" before "Block".

Third paragraph - Removed first sentence, removed second sentence through "permitting the physician to", added "Please" before "concentrate", added "respiratory/" before "pulmonary", added "/her" before "last coal mine work.", added "Note" before "any general", removed "that the physician" and "you" before "believe", added "are" before "important", added "and" before "pulse.", added "Also note" before "any", changed "and" to "any" before "specific", added "specific", added "that are relevant to your evaluation.", and removed "should be noted here."

Header: Block D.6.a. - added "Respiratory/" before "Pulmonary"

Fourth paragraph - added "respiratory/" before "pulmonary"

Removed second paragraph under "Block D.6.a."

Header: Block D.7. - added "Respiratory/" before "Pulmonary" and added "(es)"

First paragraph - added "respiratory/" before "pulmonary", removed "disease diagnosed", added "diagnosis" before "above.", removed "The" and capitalized "Causes", added "include", removed "be", removed "related to", added "infectious agents," removed "or", added "etc."

Second paragraph - removed "and results of", added ", test results, removed "physiologic data" added "physical examination findings.", added "respiratory/", removed "(Please feel free to attach additional sheets if necessary.)", and added "Note that the Department of Labor's regulations define pneumoconiosis not only as one of the lung disease recognized by the medical community as pneumoconiosis, but also as any chronic respiratory/pulmonary disease or impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment. This definition includes such diseases as chronic obstructive pulmonary disease (COPD), emphysema, and chronic bronchitis when they arise out of coal mine employment."

Header: Block D.8. - added "Disability/" and "and Cause"

First paragraph - removed

8.a. Paragraph - added "respiratory/", removed "related", added "compared", removed "related work", added "job" (twice), removed "employment", added "respiratory/" (twice), removed "related work", added "job. If you use the AMA Guides to Impairment DO NOT simply cite the impairment class alone, but also provide your reasoned opinion regarding the patient's ability to perform the duties required in his or her last coal mine job.", removed "such

as the AMA Guides to the Evaluation of Impairment. However, please DO NOT use the descriptive terms such as moderate or mild impairment used in the AMA guides without additional explanation because the Black Lung regulations define total disability as 60% or less of pulmonary capacity."

8.b. Paragraph - added "b." and "explain", removed "support" added "disability assessment with reference to the results of your examination and testing. In addition, if the miner's objective test results", removed "are apparently inconsistent with your conclusion diagnose total disability and results are conclusion by citing the results of objective testing. This is especially important in cases where a miner's objective test results otherwise fails", added "do not", removed "to", removed "as", added "to demonstrate", remove "ly", remove "led" added "ility", added "but you nevertheless diagnose total respiratory/pulmonary disability, please explain.", remove on their own. In particular, please explain why A rationale is needed in supporting a finding that the miner cannot now perform his/her current or last coal mining job even if the study results are not qualifying."

8.c. Paragraph - added "c.", added "respiratory/", removed "disease, added "disability", removed "from what genetic, social work related source", added "identify the cause(s) of the disability, including pulmonary or non-pulmonary causes", remove "did this condition arise? Please provide a narrative with a rationale that supports your conclusion", removed "impairment", added disability", removed "impairment", added "disability", removed "You must take into account the x-ray, objective test data, social history (e.g. smoking, etc.) all known work history (e.g., dust exposure, etc.) in reaching your conclusion", added "Include" , removed "Also", added "ations for", added "in reaching", removed "support", removed " such as the AMA Guides to the Evaluation of Impairment. However, please DO NOT us the descriptive terms such as moderate or mild impairment used in the AMA guides without additional explanation because the Black Lung regulations define total disability as 60% or less of pulmonary capacity. Please feel free to attach additional sheets if necessary.", remove "b. Please report the extent to which each of the diagnoses you list in D.6. contributes to the miner's impairment. You may use percentages, proportions, or narrative, but please be thorough and ensure that you have weighed the contribution of each diagnosis to the impairment."

Header Block D.9. First Paragraph - removed "here", added "cardiac or", added "from a respiratory standpoint.", remove "to

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perform his last coal mine job. Also be", added "if any", added "respiratory/"

Last Paragraph - removed "none of the medical reporting forms is currently available for online submission. However, the Department of Labor will make", added "is", added ", fillable PDF", removed "if requested. The form is already available for downloading in PDF format", remove "and", capitalize "Y", removed "complete the form online if you wish, then print it and sign it before", added "file the completed form through DCMWC's C.O.A.L Mine web portal at https://eclaimant.dol-esa.gov/portal/?program_name=BL or by", added " Central Mail Room, P.O. Box 8307, London, KY 40742-8307."

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 not 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.