

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.

The Black Lung Benefits Act, 30 U.S.C. 901, provides benefits to coal miners who are totally disabled by black lung disease arising out of coal mine employment, and certain dependents and survivors. When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) is required, at DCMWC's expense, to give the miner an opportunity to undergo a complete pulmonary evaluation, including a chest radiograph (X-ray), physical examination, pulmonary function test (also known as a ventilatory study), and arterial blood gas study. 30 U.S.C. 923(b); 20 CFR 718.101, 725.406. The results of the complete pulmonary examination, along with other medical and employment information, are used to determine whether the miner is totally disabled due to black lung disease caused by coal mine employment. 20 CFR 718.202, 718.204. As discussed below, Forms CM-933, 933b, 988, 988a, 1159, and 2907 are used by physicians to report the results of these diagnostic tests to DOL.

Roentgenographic Interpretation (Form CM-933) - One component of the complete pulmonary examination is the chest x-ray. The results of the x-ray may be used to establish the presence of pneumoconiosis, a criterion for entitlement. Form CM-933 is used to report the physician's findings. It is designed to reflect the criteria for the administration, reporting, and interpretation of x-rays set forth in 20 CFR 718.102 and 20 CFR Part 718 Appendix A.

Roentgenographic Quality Rereading (Form CM-933b) - Since the regulations require that the x-ray should be of suitable quality for proper classification of pneumoconiosis, 20 CFR 718.102(a), once a diagnostic x-ray is received with the accompanying interpretation form (Form CM-933), the x-ray is sent to another physician 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.

Medical History and Examination for Coal Mine Workers' Pneumoconiosis (Forms CM-988, CM-988a) - Another 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, pneumoconiosis, and disability. All of these facts are criteria for entitlement. The CM-988 provides all information concerning the physical examination required by DCMWC and is designed to reflect the criteria in 20 CFR 718.104 for completion of the physical examination report.

Report of Arterial Blood Gas Study (Form CM-1159) - The arterial blood gas study is another component of the complete pulmonary examination. The arterial blood gas study may be used to establish total disability, a criterion for entitlement. 20 CFR 718.204(b)(2)(ii). 20 CFR 718.105 and 20 CFR Part 718 Appendix C set forth criteria for performing and reporting blood gas studies. This form was designed to conform to those standards.

Report of Ventilatory Study (Form CM-2907) - This form is used to report the results of the ventilatory or pulmonary function test. The results of the test can be used to establish total disability, a criterion for entitlement. 20 CFR 718.204(b)(2)(i). 20 CFR 718.103 and 20 CFR Part 718 Appendix B set forth specific standards governing performance of the test. This form was designed to conform to those standards.

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 provider completes the forms and submits them with the appropriate documentation. The claims staff reviews the completed forms along with other medical and employment information to determine if the results indicate that the miner meets the eligibility criteria for black lung benefits.

Roentgenographic Interpretation (Form CM-933) and Roentgenographic Quality Rereading (Form CM-933b) - The CM-933 is sent to a physician authorized to perform diagnostic x-rays for the Department. The physician completes the form and submits it with the actual x-ray film or digital image. The claims staff then partially completes the CM-933b and sends it with the x-ray to a qualified physician (a "B-reader") who rereads the x-ray for quality and records his or her interpretation on the CM-933b.

The completed forms are evaluated to determine whether the miner has pneumoconiosis, a criterion for entitlement. If this information were not gathered, important evidence that could be used to establish the existence of pneumoconiosis would be unavailable to the claims staff.

Medical History and Examination for Coal Mine Workers' Pneumoconiosis (Forms CM-988, CM-988a) - The form is sent to a physician authorized to

perform the physical examination for the Department. The completed form is evaluated by the claims staff for the purpose of determining the existence of pneumoconiosis, the presence of total disability, and the causal relationship between the miner's coal mine employment, pneumoconiosis, and disability. 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 claims staff.

Report of Arterial Blood Gas Study (Form 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. If this information were not gathered, determinations on total disability could not be made using this test.

Report of Ventilatory Study (Form 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 completed report and the tracings are reviewed by the claims staff to determine if the results establish total disability. If this information were not gathered, determinations on total disability could not be made using this 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.

All forms are available for on-screen filling and/or downloading from the Division of Coal Mine Workers' Compensation (DCMWC) web site. The forms are available at <http://www.dol.gov/owcp/dcmwc/regs/compliance/blforms.htm>.

All forms can be mailed or electronically submitted to the COAL Mine Portal <https://eclaimant.dol-esa.gov/bl>.

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 once per claim: to report the results of a complete pulmonary evaluation. DCMWC is required to offer a complete pulmonary evaluation to miner applicants. If the collection was not done, DCMWC would not be able to comply with that statutory requirement. 30 U.S.C. 923(b).

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

- * 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 secrets, 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.

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. 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.

A Federal Register Notification inviting public comment was published on May 11, 2020 (85 FR 27775). 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.

Since the completed forms are maintained in the claimant's case file, the information collected is covered by the Privacy Act Systems of Records, DOL/OWCP-2 and DOL/OWCP-9, published at 81 Federal Register 25765, 25858, 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.

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 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."

The number of responses represents the approximate number of new miner applications and re-filing, 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 7,300 hours. This burden is based on the submission of about 30,000 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	6,000	6,000	500
CM-933b	3 min	occasion	6,000	6,000	300
CM-988	40 min	occasion	6,000	6,000	4,000
CM-1159	15 min	occasion	6,000	6,000	1,500
CM-2907	10 min	occasion	6,000	6,000	1,000
Totals			30,000	30,000	7,300

The estimated annualized cost to respondents to provide this information is \$707,005.00 (7,300 hours x \$96.85 per hour = \$707,005.00). This hourly wage for physicians (internists) is taken from the May 2019 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. DCMWC is

required to offer a complete pulmonary evaluation to every miner claimant at DCMWC's expense. DCMWC pays the physician for the medical tests, examinations, and for other expenses, including mailing charges. The physician reports these test results on the appropriate forms.

13. Provide an estimate for 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 collections 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.**

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

14. Provide estimates of annualized costs 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The estimated annualized cost to DCMWC is \$6,810,218.00, which includes DCMWC costs associated with mailing and processing the 30,000 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 \$41.66 per hour. (This figure is taken from the Office of Personnel Management's 2020 General Schedule, found here: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/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 DCMWC's cost because physicians are paid a fee by the Department of Labor for each test they perform.

DCMWC's costs were figured as follows:

Mailing **\$102,000.00**

24,000 (80%) X \$3.00 = \$72,000

6,000 (20%) (Form CM-933b) X \$5.00 = \$30,000

CM-933 **\$474,130.00**

The cost for an average annual usage of 6,000 forms is estimated as follows:

Cost of testing (6,000 X \$75.55) \$453,300.00

Processing \$20,830.00

GS-12/5 spends five minutes processing each form

(5/60) x 6,000 x \$41.66 = \$20,830.00 (\$20,829.99 rounded up)

CM-933b **\$168,378.00**

The cost for an average annual usage of 6,000 forms is estimated as follows:

Cost of testing (6,000 X \$25.98) \$155,880.00

Processing \$12,498.00

GS-12/5 spends three minutes processing each form

(3/60) x 6,000 x \$41.66 = \$12,498.00

CM-988 **\$3,166,640.00**

The cost for an average annual usage of 6,000 forms is estimated as follows:

Cost of testing (\$500.00 X 6,000) \$3,000,000.00

Processing \$166,640.00

A GS-12/5 spends forty minutes processing each form

(40/60) x 6,000 x \$41.66 = \$ 166,640.00 (\$166,639.99 rounded up)

CM-1159 **\$1,493,430.00**

The cost for an average annual usage of 6,000 forms is estimated as follows:

Cost of testing (\$238.49 X 6,000) \$1,430,940.00

Processing \$62,490.00
GS-12/5 spends fifteen minutes processing each form
(15/60) x 6,000 x \$41.66 = \$ 62,490.00

CM-2907 **\$1,405,640.00**
The cost for an average annual usage of 6,000 forms is estimated as follows:

Cost of testing (\$227.33 X 6,000) \$1,363,980.00
Processing \$41,660.00
GS-12/5 spends ten minutes processing each form
(10/60) x 6,000 x \$41.66 = \$41,660.00 (\$41,659.99 rounded up)

15. Explain the reasons for any program changes or adjustments.
The annual number of responses changed slightly to 30,000 from 27,500, estimated total burden hours changed to 7,300 hours from 6,693 hours due to the increase of completing and mailing each form.

The following minor changes were made to the forms:

CM-933
Updated where to file form.
Page 3 Changed "can not" to "cannot"
Page 3 Changed "dies" to "does"

CM-933b
Updated where to file form.
Privacy Act Notice - added second SORN.

CM-2907
Updated where to file form.
Privacy Act Notice - added second SORN.

CM-1159
Updated where to file form.
Instructions - Capitalized a for Appendix.
Privacy Act Notice - added second SORN

CM-988
Updated where to file form.
Public Burden Statement - corrected 30 minutes to 40 minutes.
Page 5, Block 6, added the following sentence. "Do not address the etiology of any diagnosed condition here; instead, address etiology in Section 7 below."

CM-988a
1st paragraph, Block D.8.a., edited last two sentence of paragraph..."Do not simply diagnose a "mild," "moderate," or "severe" impairment, or cite the AMA Guides to Impairment class (e.g., Class 0-4) alone. You

must also provide your reasoned opinion regarding whether the patient is able to perform the duties required in his or her last coal mine job." Updated where to file form.

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.