

**Supporting Statement for
Paperwork Reduction Act Submissions**

30 CFR 70.209, 71.209, and 90.209 - Mine Operator Dust Data Card

30 CFR 70.201(c), 71.201(c), and 90.201(c) - Reporting Operator Sampling Dates

30 CFR 70.202(b), 71.202(b), and 90.202(b) - Dust Sampling Certification

30 CFR 70.220(a), 71.220(a), and 90.220(a) - Reporting Status Changes

30 CFR 71.300, 71.301(d), 90.300 and 90.301(d) - Respirable Dust Control Plan

A. Justification

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

The presence of respirable dust in coal mines has been a source of health problems for miners for as long as miners have taken coal from the ground. Miners' exposure to excessive amounts of respirable coal mine dust can cause coal workers' pneumoconiosis (CWP), commonly known as "black lung," one of the most insidious of occupational diseases affecting coal miners. Silicosis is another job-related lung disease included in "black lung," that is caused by inhaling dust containing crystalline silica (quartz dust), which scars the sensitive lung tissue, reducing the lung's ability to extract oxygen from the air. The disability that results can range from slightly impaired lung function to significant decrement in lung function resulting in breathlessness, recurrent chest illness, and even heart failure. During FY 2002, over 25,000 former coal miners and other surviving beneficiaries received more than \$830 million in "black lung" benefits. Over \$39.7 billion in benefits have been paid out since inception of the federal Black Lung program in 1970.

Pursuant to Section 202(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 842, and its implementing regulations in 30 CFR Parts 70 and 71, coal mine operators are required to protect miners from excessive dust concentrations by continuously maintaining the average concentration of respirable coal mine dust in the mine atmosphere where miners work or travel at or below 2.0 milligrams per cubic meter (mg/m³). Also, under 30 CFR Part 90, a coal miner who has evidence of the development of CWP may elect to work in a mine atmosphere that is maintained at or below 1.0 mg/m³. Current regulations also provide for lowering of the applicable dust standard where quartz is present at concentrations above 5% of respirable dust using the formula $10 \div \% \text{ quartz}$.

To demonstrate that the applicable standard is being complied with, current regulations provide for operator bimonthly sampling of specific occupations or work locations and the submission of samples to MSHA for analysis. Specifically, under 30 CFR Part 70, *each* underground coal mine operator must sample the designated occupation (DO) in each mechanized mining unit (MMU) for five production shifts and each designated area (DA) for one shift. The specific locations where DA samples are required to be collected are identified in the operator's approved mine ventilation plan. While 30 CFR Parts 71 provides for operator bimonthly sampling at surface coal

1219-0011

mines and surface areas of underground coal mines, no sampling is required to be carried until after MSHA designates for sampling a specific work position at a mine. This would occur whenever the average concentration as measured by one or more MSHA samples exceeds either 1.0 mg/m³ or the applicable dust standard when below 1.0 mg/m³. Current regulations also provide for the removal from sampling status of any designated work position (DWP) once an operator has demonstrated continuing compliance over a 12-month period with the 2.0-mg/m³ dust standard or with a reduced standard when more than 5 percent quartz is present in the dust. Only a certified person is permitted to conduct the dust sampling required by these parts and to certify on the completed dust data card (under §§ 70.209, 71.209, and 90.201) that accompanies each sample submitted to MSHA for analysis that sampling was conducted in accordance with the regulations. To become certified, §§ 70.202(b), 71.202(b), and 90.202(b) require that the person pass the MSHA examination on sampling of respirable coal mine dust. If MSHA wishes to monitor operator sampling activities, §§ 70.201(c), 71.201(c), and 90.201(c) authorize the District Manager to require the mine operator to submit in advance the date(s) when mandated sampling will be conducted. This information can also be used by the Agency in scheduling its sampling visits so as not to interfere with operator sampling.

If there is a change in the operational status of any designated sampling entity that affects the operator sampling requirements, §§ 70.220(a), 71.220(a), and 90.202(a) require the operator to report status changes to MSHA in writing within 3 working days after the status change has occurred.

When the results of operator samples show excessive dust levels, the operator is either cited for violating the applicable standard and assessed a civil penalty (applicable to MMUs only), or is required to submit five additional samples which are then averaged to determine noncompliance. If noncompliance is based on the results of MSHA samples, a citation will be issued for excessive dust. Under §§ 70.201(d), 71.201(d), and 90.201(d), the cited operator must take corrective action and then sample the affected MMU, DA, DWP, or part 90 miner until five valid respirable dust samples are collected.

Sections 71.300 and 90.300 require the submission of a written respirable dust control plan to MSHA for approval within 15 calendar days after the termination date of a citation for violation of the applicable standard. Such a plan must describe the specific dust control measures used by the operator to abate the dust violation and how each control measure will continue to be used to ensure continued compliance.

Lastly, § 71.301(d) requires the operator to post the dust control plan on the mine bulletin board to inform interested persons at the mine of the types and location of dust control measures that are required to be employed and maintained. However, for privacy reasons, § 90.301(d) prohibits posting of the dust control plan for part 90 miners and, instead, requires that a copy be provided to the affected part 90 miner.

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 information provided by the mine operator on the dust data card that accompanies each dust sample submitted to MSHA for analysis; the reporting of when such samples will be taken to allow MSHA to observe the actual collection; and the reporting of any changes in operation status affecting sampling, is vital to effectively administer the operator sampling program. This allows MSHA to determine not only whether individual operators have fully complied with the

1219-0011

sampling provisions stipulated in the regulations but also which operators failed to adequately protect miners from excessive dust concentrations. After processing, the sampling results are reported back to mine operators for posting on the mine bulletin board and viewing by miners. MSHA also uses the results of operator sampling to evaluate programs, target compliance assistance efforts, and plan special health emphasis initiatives.

Mine operators whose samples exceed the applicable standard are either notified to submit additional samples (involving DA, DWP, or P-90 miner entity types only) or are cited for violating the applicable standard. As discussed earlier, once cited by MSHA, the operator must promptly take corrective action and then submit five abatement samples to demonstrate that dust levels have been reduced within the applicable standard.

Once a respirable dust control plan, submitted in accordance with either § 71.300 or 90.300, is approved by MSHA, its provisions must be employed and complied with on a continuous basis. Posting of the plan in accordance with § 71.301(d) allows the affected miners to acquaint themselves with the types and locations of dust control measures that are required to be employed and maintained. MSHA inspectors use the information provided in the plan to determine whether the operator is complying with all plan provisions, and to assess the plan's continued effectiveness in maintaining compliance with the applicable standard.

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.

No improved information technology has been identified by MSHA that would reduce the burden associated with the completion of the dust data card. This is because each operator-collected sample when transmitted to MSHA for processing must be physically attached to its properly completed accompanying dust data card. The information provided on the dust data card enables MSHA to make an accurate determination of whether the operator has fully complied with sampling requirements and is in compliance with applicable dust standards. Consequently, this particular information collection technique does not lend itself to electronic submission. However, mine operators may utilize information technology for the other paperwork requirements associated with this information collection.

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.

Dust data cards are completed by mine operator for individual dust samples to fulfill specific regulatory requirements designed to protect the health of miners by demonstrating the work place to be free of excessive dust levels. Without these samples, MSHA could not ascertain that respirable dust levels are being maintained at or below statutory limits established to prevent CWP in miners when an MSHA inspector is not onsite. While MSHA also conducts period sampling, its purpose is to (1) monitor the effectiveness of the operator's respirable dust control programs; (2) determine whether the occupation being sampled by the operator has been properly designated for sampling; (3) determine if excessive levels of quartz are present which would require the dust standard to be reduced making it more protective; and (4) identify work positions at surface mines or surface areas of underground mines that should either be designated for operator bimonthly sampling or removed from sampling status. Since the purpose

1219-0011

of MSHA and operator sampling differs, there is no duplication of effort. MSHA knows of no other federal, state, or local agency that collects similar information on samples required for compliance purposes.

MSHA also knows of no other Federal, state, or local agency that collects similar information on respirable dust control plans.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The provisions of the Federal Mine Safety Mine Act of 1977 (Mine Act) and MSHA regulations and standards apply to all mining operations because accidents, injuries, and illnesses can occur at any mine, regardless of size. Congress intended that the Mine Act be enforced uniformly at all mining operations within its jurisdiction regardless of size, and that information collection and record keeping requirements be consistent with efficient and effective enforcement of the Act. (See S. Rep. 181, 95th Cong., 1st Sess. 28 (1977)). However, Congress did recognize that small mine operators may have difficulty in complying with some of the provisions of the Mine Act. Therefore, Section 103(e) of the Mine Act, 30 U.S.C. § 813(e), directs the Secretary of Labor not to impose an unreasonable burden on any operator, and in particular, small businesses, in obtaining any information under the Act. Accordingly, MSHA takes this into consideration when developing regulatory requirements, and when appropriate and consistent with ensuring the health and safety of miners, different requirements for small and large mines exist. In MSHA's opinion, separate and distinct dust data collection requirements for small mines would not promote the Mine Act's objectives of protecting miners from overexposure to respirable coal mine dust and its related health hazards.

6. Describe the consequence to 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.

Because mining conditions are constantly changing, the quality of the air that miners breathe must be periodically evaluated to ensure that it is free of excessive dust. Therefore, MSHA requires that certain designated occupations, miners, and work locations be sampled by mine operators every 2 months (bimonthly). To monitor less frequently would allow the presence of excessive dust levels to go undetected. Failing to identify where, when, and under what production conditions specific samples were collected would render the sampling results meaningless and of no practical use. Consequently, the health of miners would be adversely impacted if excessive dust concentrations could not be properly acted on.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- ! 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;

1219-0011

- ! **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 secret, 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.**

For the reasons stated earlier, MSHA requires the submission of compliance samples collected bimonthly and abatement samples following issuance of a citation for the sole purpose of demonstrating that the workplace is being maintained at or below the applicable standard. Also, since the operational status of a designated sampling entity has a direct impact on the operator's ability to fully comply with the sampling requirements, §§ 70.220(a), 71.220(a), and 90.220(a) require the reporting of status changes in writing if sampling will be affected.

Once adopted by the mine operator, a respirable dust control plan must remain in effect for the life of the surface mine, surface facility, or surface area of an underground mine, or until the MSHA district manager determines that the plan is no longer necessary. Valid respirable dust control plans provide the baseline for MSHA to determine whether or not miners will be adequately protected from excessive dust concentrations during each shift. The collection of information is otherwise consistent with the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the data 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.

1219-0011

MSHA published a 60-day pre-clearance FEDERAL REGISTER notice on (12/18/02, 67 FR No. 243, pages 77526 - 77528), soliciting public comments regarding the extension of this information collection. The comment period is open through 02/18/03.

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

MSHA has decided not to provide payments or gifts to respondents identified by this collection.

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

The information provided by the respondents includes the Social Security Number (SSN) of the person who either collected the dust sample or signed the dust data card certifying that the sample was collected in accordance with the regulations. The SSN is used to verify whether the individual who signed the data card is a certified person as required under §§ 70.202, 71.202 and 90.202. If a sample is taken on a miner who has evidence of pneumoconiosis, the SSN of the sampled miner (part 90 miner) is recorded on the data card for tracking samples collected on that particular miner. All records pertaining to part 90 miners are kept confidential and stored in locked cabinets, and accessed only by authorized Agency personnel.

No other records requiring confidentiality are required. However, in the event a mine operator should include proprietary information in the respirable dust control plan, such data will be kept confidential by MSHA consistent with the guidelines outlined in 5 U.S.C. 552(b)(4).

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.

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 in Item 13 of OMB Form 83-I.

1219-0011

! **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 in Item 13.**

The number of respondents for this submission is 1,049 mines.

30 CFR 70.209, 71.209, and 90.209: In FY 2002, MSHA processed approximately 42,840 dust data cards from 662 underground mines and 419 surface mines and facilities. This represents a decline of 21 percent from the 54,000 data cards that were reported in the previous submission. Specifically, during the just completed fiscal year, 38,300 data cards were submitted under § 70.209, 4050 under § 71.209, and 490 under § 90.209. Based on the Agency’s experience, it expects to receive approximately three percent fewer data cards in FY 2003 than in the prior year or about 41,600 due to the anticipated decline in the number of active mining operations. Of this total, approximately 28,000 data cards will be submitted by mine operators doing their own sampling; 11,000 by operators who rent the sampling equipment from outside parties; and the remaining 2,600 by independent contractors. The cost of equipment rental and contractor sampling services is included in Item 13. MSHA estimates that it requires approximately 50 minutes (0.83 hours) per sample to prepare the approved sampler unit and 10 minutes (0.17 hour) to make the required operational checks (monitoring) during the shift. This work, except for the actual monitoring of sampler operation (0.17 hour per sample), is performed by a certified dust technician earning approximately \$19.95 per hour. A mine supervisor, earning \$54.92 per hour, normally monitors the operation of the sampler unit during the shift. The Agency estimates that for operators doing their own sampling it will take a technician, earning \$19.95 per hour, approximately 15 minutes (0.25 hour) to complete and sign each dust data card.

Hour Burden

28,000 samples x 0.8333 hrs.	=	23,332 hrs.
28,000 samples + 11,000 x 0.17 hr. (monitoring)	=	6,630 hrs.
39,000 samples x 0.25 hr. (complete and sign data card)	=	<u>9,750 hrs.</u>
Total	=	39,712 hrs.

Hour Burden Cost

23,332 hrs. x \$19.95	= \$	465,473
6,630 hrs. x \$54.92	= \$	364,120
9,750 hrs. x \$19.95	= \$	<u>194,513</u>
Total	= \$	1,024,106

30 CFR 70.201(c), 71.201(c), and 90.201(c): If MSHA wishes to observe operator sampling, these standards give the District Manager the authority to require a mine operator to submit in advance the dates when sampling will be conducted. The Agency anticipates receiving approximately 400 sampling schedules during FY 2003. MSHA estimates that it will take a mine supervisor, earning \$54.92 per hour, an average of 45 minutes (0.75 hour) to develop a sampling schedule, and a mine clerk, earning \$19.58 per hour, another 15 minutes (0.25 hour) to type and mail the schedule to the MSHA District Office.

1219-0011

Hour Burden

400 schedules x 0.75 hr.	=	300 hrs.
400 schedules x 0.25 hr.	=	<u>100 hrs.</u>
Total	=	400 hrs.

Hour Burden Cost

300 hrs. x \$54.92	= \$	16,476
100 hrs. x \$19.58	= \$	<u>1,958</u>
Total	= \$	18,434

30 CFR 70.202(b), 71.202(b), and 90.202(b): These standards require a certified person to conduct respirable dust sampling and to sign the dust data card that accompanies each sample transmitted to MSHA for processing. To become certified, an individual must pass the MSHA examination on sampling of respirable coal mine dust. The Agency anticipates certifying approximately 200 individuals in FY 2003. Of these, 160 individuals (80 mine supervisors earning \$54.92 per hour; 40 miners earning \$28.07 per hour; and 40 technicians earning \$19.95 per hour) will take both the training class and the certification exam (avg. 8 hours in length), while the remaining 40 individuals (20 mine supervisors; 10 miners; and 10 technicians) will opt for taking the examination only (avg. 1.5 hours).

Hour Burden

80 mine supervisors x 8 hrs.	=	640 hrs.
40 miners x 8 hrs.	=	320 hrs.
40 technicians x 8 hrs.	=	320 hrs.
20 mine supervisors x 1.5 hrs.	=	30 hrs.
10 miners x 1.5 hrs.	=	15 hrs.
10 technicians x 1.5 hrs.	=	<u>15 hrs.</u>
Total	=	1,340 hrs.

Hour Burden Cost

670 hrs. x \$54.92	= \$	36,796
335 hrs. x \$28.07	= \$	9,403
335 hrs. x \$19.95	= \$	<u>6,683</u>
Total	= \$	52,882

30 CFR 70.220(a), 71.220(a), and 90.220(a): These standards require the operator to report changes in the operational status of any designated sampling entity that affects the sampling requirements of 30 CFR Parts 70, 71, and 90. Such changes must be reported in writing to the MSHA District Office within 3 working days after the status change has occurred. The Agency anticipates receiving some 3,800 status changes in FY 2003, and approximately three percent fewer each year thereafter. It will take a mine supervisor, earning \$54.92 per hour, an average of 15 minutes (0.25 hour) to prepare a status change report and a mine clerk, earning \$19.58 per hour, an average of 10 minutes (0.17 hour) to type and mail the report to MSHA.

1219-0011

Hour Burden

3,800 reports x 0.25 hr.	=	950 hrs.
3,800 reports x 0.17 hr.	=	<u>646 hrs.</u>
Total	=	1,596 hrs.

Hour Burden Cost

950 hrs. x \$54.92	= \$	52,174
646 hrs. x \$19.58	= \$	<u>12,649</u>
Total	= \$	64,823

30 CFR 71.300: Based on the number of citations issued for violation of the applicable dust standard under §§ 71.100 or 71.101 during FY 2002 (i.e., 20 and 9 based on operator and MSHA samples, respectively), MSHA anticipates that, beginning in FY 2003, operators will submit approximately 24 new respirable dust control plans and 5 revisions annually under § 71.300. The Agency estimates that it will take a mine supervisor, earning \$54.92 per hour, an average of 3 hours to prepare a new dust control plan and 1.25 hours to revise an existing plan; and a mine clerk, earning \$19.58 per hour, an average of 10 minutes (0.17 hour) to copy and mail the plan to MSHA for review and approval.

Hour Burden

24 plans (new) x 3 hrs.	=	72 hrs.
5 plans (revise) x 1.25 hrs.	=	6 hrs.
29 plans x 0.17 hr.	=	<u>5 hrs.</u>
Total	=	83 hrs.

Hour Burden Cost

78 hrs. x \$54.92	= \$	4,284
5 hrs. x \$19.58	= \$	<u>98</u>
Total	= \$	4,382

30 CFR 71.301(d): This standard requires the mine operator to post a copy of the approved plan on the mine bulletin board. Copying and posting are estimated to take a mine clerk, earning \$19.58 per hour, an average of 15 minutes (0.25 hour).

Hour Burden

29 plans x 0.25 hr.	=	7 hrs.
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Hour Burden Cost

7 hrs. x \$19.58	= \$	137
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1219-0011

30 CFR 90.300: Based on the number of citations issued for violation of the applicable dust standard under §§ 90.100 or 90.101 during FY 2002 (i.e., 2 based on the results of MSHA samples), MSHA anticipates that, beginning in FY 2003, operators will submit approximately one new dust control plan and one revision each year under § 90.300. The Agency estimates that it will take a mine supervisor, earning \$54.92 per hour, an average of 3 hours to prepare a new dust control plan and 1.25 hours to revise an existing plan; and a mine clerk, earning \$19.58 per hour, an average of 10 minutes (0.17 hour) to copy and mail the plan to MSHA for review and approval.

Hour Burden

1 plan (new) x 3 hrs.	=	3 hrs.
1 plan (revise) x 1.25 hrs.	=	1 hr.
2 plans x 0.17 hr.	=	<u>0.5 hr.</u>
Total	=	4.5 hrs.

Hour Burden Cost

4 hrs. x \$54.92	= \$	220
0.5 hr. x \$19.58	= \$	<u>10</u>
Total	= \$	230

30 CFR 90.301(d): This standard requires the mine operator to provide a copy of the approved plan to the affected part 90 miner. MSHA estimates that it will take a mine clerk, earning \$19.58 per hour, an average of 10 minutes (0.17 hour) to copy the plan and a mine supervisor, earning \$54.92 per hour, an average of 15 minutes (0.25 hour) to provide a copy of the approved plan to the affected part 90 miner.

Hour Burden

2 plans x 0.17 hr.	=	0.5 hr.
2 plans x 0.25 hr.	=	<u>0.5 hr.</u>
Total	=	1.0 hrs.

Hour Burden Cost

0.5 hr. x \$19.58	= \$	10
0.5 hr. x \$54.92	= \$	<u>27</u>
Total	= \$	37

Total Hour Burden	=	43,144 hrs.
Total Hour Burden Cost	= \$	1,165,031

Summary

1219-0011

Previous Submission

Section	Respondents	Frequency	Responses	Avg. Time/Response	Burden Hours
70.209 71.209 90.209 Mine Operator Dust Data Cards	1,281	Bi-monthly	54,000	0.7135 hrs	38,532
70.201(c) 71.201(c) 90.202(c) Reporting of Sampling Dates	1,281	On Occasion	630	1.0 hours	630
70.202(b) 71.202(b) 90.202(b) Dust Sampling Certification	1,281	Annually	230	6.6 hours	1,528
70.220(a) 71.220(a) 90.220(a) Status Change Reports	1,281	Annually	3,800	.50 hours	1,600
71.300 Dust Control Plan	1,281	Annually	45	2.86 hours	134
71.301(d) Posting of Plan	1,281	Annually	6	0.24 hours	11
90.300 Dust Control Plan	1,281	Annually	6	2.67 hours	16
90.301(d) Provide Plan to Part 90 Miner	1,281	Annually	6	.50 hours	3
Total			58,162		42,454

Current Submission

Section	Respondents	Frequency	Responses	Avg. Time/Response	Burden Hours
70.209 71.209 90.209 Mine Operator Dust Data Cards	1,049	Bi-monthly	41,600	0.72 hours	29,962
70.201(c) 71.201(c) 90.202(c) Reporting of Sampling Dates	1,049	On Occasion	400	1.0 hours	400
70.202(b) 71.202(b) 90.202(b) Dust Sampling Certification	1,049	On Occasion	200	6.7 hours	1,340
70.220(a) 71.220(a) 90.220(a) Status Change Reports	1,049	On Occasion	3,800	0.42 hours	1,596
71.300 Dust Control Plan	425	On Occasion	29	2.86 hours	83
71.301(d) Posting of Plan	425	On Occasion	29	0.24 hours	7
90.300 Dust Control Plan	55	On Occasion	2	2.25 hours	4.5
90.301(d)	55	On Occasion	2	0.35 hours	0.7

1219-0011

Provide Plan to Part 90 Miner					
Total			46,062		43,144

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

! 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 collection 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.

(a) The total capital (or start-up) cost to mine operators to obtain and maintain the equipment and supplies necessary to conduct the required dust sampling is estimated to be:

28,000 dust cassettes x \$13.81 ea.	= \$	386,680
2,100 pumps x \$638 x 0.142(10-yr. life)	= \$	190,252
3,150 sampling-head assemblies x \$266 ea x 0.381(3-yr. life)	= \$	319,240
2,100 battery chargers x \$50 ea. x 0.244(5-yr. life)	= \$	25,620
1,050 spare battery packs x \$156 ea. x 0.381(3-yr. life)	= \$	62,408
100 fast-response calibrators x \$1035 ea x 0.244(5-yr. life)	= \$	<u>25,254</u>
Total capital (or start-up) cost	= \$	1,009,454

1219-0011

(b) The total annual operational and maintenance and contact services cost is estimated to be:

2,100 pumps x \$135 for maint. & repair	= \$	283,500
11,000 dust samples x \$75 per sample (collected by operator using equip. + cassette supplied by contractor)	= \$	825,000
2,600 dust samples x \$200 per sample (collected by contractor)	= \$	<u>520,000</u>
Subtotal	= \$	1,628,500

Regulations require dust sampling pumps to be calibrated before they are put into service and at intervals of not more than 200 hours of operating time thereafter. MSHA estimates that some 2,100 sampling pumps are being used by mine operators today, and approximately one third or 693 of these will be calibrated annually. Approximately 20% of the calibrations (involving some 138 pumps) will be performed by a certified dust technician, earning approximately \$19.95 per hour, and that each calibration requires about 35 minutes (0.58 hour) to perform. The remaining 555 dust pumps will be calibrated by outside calibration service.

138 pumps x 0.58 hr. x \$19.95	= \$	1,597
555 pumps x \$110 per calibration	= \$	<u>61,050</u>
Subtotal	= \$	62,647

The postage cost for mailing a dust sample along with its data card in the pre-addressed mailer is approximately \$0.60 per sample.

39,000 mailers x \$0.60	= \$	<u>23,400</u>
Subtotal	= \$	23,400

Total annual (O&M and contract services) cost = \$ 1,714,047

Total annual cost burden = \$ 2,723,501

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

MSHA also incurs costs in processing operator samples submitted under 30 CFR Parts 70, 71, and 90. These costs are associated with weighing the samples, recording the weights on the dust data cards, and making data entry into electronic data processing systems to record and utilize the dust sample data.

Upon receiving the operator's dust sample and the accompanying data card, MSHA's Respirable Dust Processing Laboratory in Pittsburgh, PA, prepares each sample received for weighing, weighs it using a robotic weighing system employing micro-balances, records the results on the data card, and enters the information recorded on the data card into a personal computer for electronic transmission to the main computer in San Antonio, New Mexico, for processing under contract with the Department of Defense. There, the transmitted information is processed, which

1219-0011

involves checking the inputted information for accuracy and completeness, performing the required calculations of average concentration, and electronically transmitting the results to Denver, CO, where various computer-generated reports called data mailers are produced. These data mailers, which contain specific information obtained from the dust data card, are mailed to coal mine operators to communicate the disposition of each submitted dust sample and the required follow-up action.

Sample processing and data transmission to main frame:

MSHA personnel labor cost	= \$	141,382
Equipment and annual maintenance cost (vacuum pump, robotic weighing system, analytical balances, and PCs)	= \$	23,650
Misc. supplies (labels, paper, etc.)	= \$	<u>650</u>
Total	= \$	165,682

Data processing and reporting of results to mine operators:

Data mailers (42,000 mailers x \$0.36)	= \$	15,120
Computer time and onsite support (\$1.37 per mailer x 42,000)	= \$	57,540
Technical support (80% of contractor's salary of \$114,000)	= \$	91,200
Postage (42,000 x \$0.49)	= \$	<u>20,580</u>
Total	= \$	184,440

30 CFR 70.201(c), 71.201(c), and 90.201(c): MSHA expects to issue some 400 requests for sampling schedules beginning in FY 2003, and expects to receive approximately 340 responses from mine operators and 60 from independent contractors. It will take an Agency clerk, earning \$15 per hour (GS 5/7), an average of 15 minutes (0.25 hour) to type and mail each request, and an average of 15 minutes (0.25 hour) to process each operator response; and an Agency health supervisor, earning \$32 per hour (GS 12/5), and average of 15 minutes (0.25 hour) to review and distribute each response to respective field offices for follow-up action.

Hour Burden

400 requests x 0.25 hr.	=	100 hrs.
400 responses x 0.25 hr.	=	100 hrs.
400 responses x 0.25 hr.	=	<u>100 hrs.</u>
Total	=	300 hrs.

Hour Burden Cost

200 hrs. x \$15	= \$	3,000
100 hrs. x \$32	= \$	<u>3,200</u>
Total	= \$	6,200

30 CFR 70.220(a), 71.220(a), and 90.220(a): These standards require the operator to report changes in the operational status of any designated sampling entity that affects the sampling requirements

1219-0011

of 30 CFR 70, 71, and 90. Such changes must be reported in writing to the MSHA District Office within 3 working days after the status change has occurred. MSHA expects to process approximately 3,800 status change reports in FY 2003, and three percent fewer each year thereafter. These reports are subsequently reviewed again by Agency personnel to determine whether to cite a particular operator for failure to comply with the sampling requirements following receipt of an advisory from Denver informing the responsible MSHA office that the operator failed to submit the required number of respirable dust samples. It will take an Agency health supervisor, earning \$32 per hour (GS 13/5 salary), an average of 10 minutes (0.17 hour) to review each status change report, and an Agency clerk, earning \$15 per hour (GS 5/7), and average of 20 minutes (0.33 hour) to process and file each report.

Hour Burden

3,800 reports x 0.17 hr.	=	646 hrs.
3,800 reports x 0.33 hr.	=	<u>1,254 hrs.</u>
Total	=	1,900 hrs.

Hour Burden Cost

646 hrs. x \$32	= \$	20,672
1,254 hrs. x \$15	= \$	<u>18,810</u>
Total	= \$	39,482

30 CFR 71.300: As a result of the citations issued for violations of the applicable dust standard under §§ 71.100 and 71.101, MSHA expects mine operators to submit 24 new respirable dust control plans and 5 revisions under § 71.300 each year. It will take an Agency health supervisor, earning \$32 per hour (GS 13/5 salary), 45 minutes (0.75 hour) to review the average plan (new) and 25 minutes (0.42 hour) per revision, and an Agency clerk, earning \$15 per hour (GS 5/7 salary), another 45 minutes (0.75 hour) to process a plan (new or revision).

Hour Burden

24 plans (new) x 0.75 hr.	=	18 hrs.
5 plan revisions x 0.42 hr.	=	2 hrs.
29 plans x 0.75 hr.	=	<u>22 hrs.</u>
Total	=	42 hrs.

Hour Burden Cost

20 hrs. x \$32	= \$	640
22 hrs. x \$15	= \$	<u>330</u>
Total	= \$	970

30 CFR 90.300: As a result of the citations issued for violations of the applicable respirable dust standard under §§ 90.100 and 90.101, MSHA expects mine operators to submit one new respirable dust control plans and one revision under § 90.300 each year. MSHA estimates that it will take an Agency health supervisor, earning \$32 per hour, 45 minutes (0.75 hour) to review the average plan and 25 minutes (0.42) per revision, and an Agency clerk, earning \$15 per hour, another 45 minutes (0.75 hour) to process a new plan or any revisions.

Hour Burden

1219-0011

1 plan (new) x 0.75 hr.	=	1 hr.
1 plan revisions x 0.42 hr.	=	0.5 hr.
2 plans x 0.75	=	<u>1.5 hrs.</u>
Total	=	3 hrs.

Hour Burden Cost

1.5 hrs. x \$32	= \$	48
1.5 hrs. x \$15	= \$	<u>23</u>
Total	= \$	71

Total Annualized Cost to Federal Government = \$ 396,845

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Respondents: There is a decrease of 232 respondents (1,281 to 1,049). Due to the decline in the less productive and marginal mining operations, the number of respondents decreased by over 15 percent, from FY 1998 to FY 2002. This trend is expected to continue over the next three years, resulting in approximately three percent fewer respondents or 1049 submitting respirable dust samples in FY 2003.

Responses: There is a 12,100 decrease in the number of responses (58,162 to 46,062). As a result of the direct relation in the number of respondents to responses, a decrease in responses occurred.

Hours: There is an increase of 690 hours (42,454 to 43,144). Instead of an adjusted decrease in burden hours that would be expected as a result of the reduced number of dust samples the Agency anticipates to process in FY 2003, there is an increase. This is due to the inclusion of the hour burden on respondents to complete and sign the dust data card accompanying each sample under §§ 70.209, 71.209, and 90.209, that was omitted previously due to administrative oversight. If this particular burden had been accounted for in the previous paper reduction package, the Agency would, instead, be reporting a decrease in the current submission consistent with the decrease in the number of respondents and responses.

Costs: There is a \$405K decrease in costs (3,128K to 2,723K). Consistent with the expected decline in the number of respondents in FY 2003 and, consequently, in the number of samples these respondents will submit to MSHA for processing, there is a reduction in the O&M and contract services cost. Therefore, an adjusted decrease in the total annual cost burden is realized, even after inclusion of the burden discussed in the "hours" that had been omitted.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will

1219-0011

be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The transmittal and processing of dust data cards is not required for publication. Results are reported back to mine operators and the electronic data base is used to plan enforcement activities and evaluate programs, but the underlying purpose is to monitor compliance with mandatory permissible exposure limits for respirable coal dust to assure healthful work environments. Likewise, information provided by mine operators in respirable dust control plans is not collected for the purpose of publication.

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.

MSHA is seeking approval to not display the expiration date for OMB approval of this information collection. Dust sampling cassettes and the accompanying dust data cards are manufactured by the Mine Safety Appliances Company for sale to coal mine operators. MSHA has no direct control over the production or distribution of the cassettes and data cards. As a result, the likelihood is high that out-of-date dust data cards will be supplied to and used by the coal mining industry. MSHA proposes instead to issue a Program Information Bulletin to all coal mine operators informing them of the new expiration date each time OMB extends the expiration date for this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

There are no certification exceptions identified with this information collection.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1. Describe (including numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

The collection of this information does not employ statistical methods.

2. Describe the procedures for the collection of information including:

- . **Statistical methodology for stratification and sample selection,**
- . **Estimation procedure,**
- . **Degree of accuracy needed for the purpose described in the justification,**
- . **Unusual problems requiring specialized sampling procedures, and**
- . **Any use of periodic (less frequent than annual) data collection cycles to reduce burden.**

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of tests may be submitted for approval separately or in combination with the main collection of information.

5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

Proposed Display Statement

30 CFR Parts 70, 71, and 90 require coal mine operators to collect and submit dust samples to MSHA for analysis to determine compliance with federal coal mine dust standards. 30 CFR §§ 70.209, 71.209, and 90.209 require dust data cards submitted with each dust sample to be completed by person certified by MSHA to take dust samples.

The public reporting burden for this collection of information is estimated to average 52 minutes per response, including the time for the sample unit preparation, on-site monitoring, disassembly and cleanup, and completion of the dust data card. Send comments regarding this estimate response time or any other aspect of this collection of information, including suggestions for reducing this burden to the Records Management Group, Administration and Management, Mine Safety and Health administration, U.S. Department of Labor, 1100 Wilson Boulevard, Arlington, VA 22203-3939.

In compliance with the Privacy Act of 1974, the following information is provided: solicitation of the information requested on this form, including the use of the social security number for certified individuals and designated miners is authorized by 30 CFR Parts 70, 71, and 90. The data will be used to determine compliance with federal coal mine respirable dust standards and sampling requirements. False certification is punishable under section 110(a) & (f) of the Federal Mine Safety and Health Act (PL 91-173 as amended by PL 95-164)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB Control Number 1219-0011