

Supporting Statement

Mine Operator Dust Data Card; 30 CFR Sections 70.209, 71.209, and 90.209 - Mine Operator Dust Data Card; 70.201(c), 71.201(c), and 90.201(c) - Reporting Operator Sampling Dates; 70.202(b), 71.202(b), and 90.202(b) - Dust Sampling Certification; 70.204, 71.204 and 90.204 - Approved Sampling Devices, Maintenance and Calibration ; 70.210 and 71.210- Posting of Operator Dust Sample Data; 70.220(a), 71.220(a), and 90.220- Reporting Status Changes; and 71.300, 71.301(d), 90.300 and 90.301(d) - Respirable Dust Control Plan and Posting.

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.

Prolonged exposure to excessive amounts of respirable coal mine dust can cause respiratory problems, ranging from mild impairment of respiratory function to more severe diseases such as coal workers' pneumoconiosis (CWP), commonly referred to as "black lung" disease, and silicosis. These occupational lung diseases are debilitating, and in severe cases, disabling and fatal. While considerable progress has been made in lowering dust levels since 1970 and, consequently, the prevalence rate of CWP among coal miners, severe forms of this disease continue to be identified. Newly released information from the federally funded Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) clearly indicate that CWP remains a key occupational health risk among our nation's coal miners. According to NIOSH, 578 or 3.2 percent of the 18,078 underground coal miners x-rayed between January 2003 and September 2008 were found to have CWP. Also, in FY 2007, over 13,400 former coal miners and the dependents of miners received \$572 million in "black lung" benefits. And, since inception of the federal Black Lung Benefits Program in 1970, over \$43 billion in total benefits have been paid out to former miners and their dependents.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, Section 202(a) of the Mine Act, 30 U.S.C. § 84(a), and its implementing regulations in 30 CFR parts 70 and 71, require coal mine operators to protect miners from exposure to excessive dust levels by continuously maintaining the average concentration of respirable coal mine dust in the mine atmosphere where they normally work or travel at or below 2.0 milligrams per

cubic meter (mg/m^3). This standard is further reduced, using the formula $10 \div \%$ quartz, when the respirable dust contains more than 5% quartz since this presents an additional respiratory hazard that can cause silicosis. Also, under 30 CFR part 90, any coal miner (Part 90 miner) who has early evidence of the development of CWP and elects to work in a low-dust environment cannot be exposed to dust levels exceeding $1.0 \text{ mg}/\text{m}^3$. This standard is also reduced further if more than 10% quartz is found in their work environment.

Existing regulations provide that coal mine operators sample bimonthly designated occupations or work locations and submit these samples to MSHA for analysis to determine if the mine is complying with the applicable dust standards. 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 consecutive shifts or days, and each designated area (DA) for one shift at locations specified in the operator's approved mine ventilation plan. Under 30 CFR part 71, each coal mine operator must sample bimonthly at surface coal mines and surface areas of underground mines the designated work positions (DWP). Under 30 CFR part 90, each coal mine operator must sample bimonthly each Part 90 miner a minimum of one shift.

Under 30 CFR parts 70, 71, and 90, only certified persons may conduct these dust samplings. These individuals, under §§ 70.209, 71.209, and 90.209, must then complete all fields on the dust data card including the Mine ID Number, Contractor Code, Mine Name, Company Name, Date and Time Sampled, Tons this Shift, Type of Sample, MMU, Occ Code, and MIIN, for each dust sample submitted to MSHA for processing. To become certified, §§ 70.202(b), 71.202(b), and 90.202(b) require that the person pass the MSHA examination on sampling for 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 has been used by the Agency in scheduling its sampling visits so as not to interfere with operator sampling.

These certified persons may only use sampling devices maintained as approved under 30 CFR part 74 (Coal Mine Dust Personal Sampler Units) and calibrated in accordance with MSHA Informational Report IR 1240 (1996) "Calibration and Maintenance Procedures for Coal Mine Respirable Dust Samplers" (§§ 70.204(a), 71.204(a), and 90.204(a)). These sampling devices must be calibrated before they are put into service and, thereafter, at intervals not to exceed 200 hours of operating time (§§ 70.204 (b), 71.204 (b), and 90.204 (b)).

After MSHA processes the submitted samples, it sends a report of the results to the mine operator (§§ 70.210(a), 71.210(a) and 90.210(a)), which contains the following information: the mine identification number; the specific entity from which the samples were taken; the concentration of respirable dust for each valid sample; the average concentration for all valid samples; the occupation code, where applicable; and the reason for voiding any sample. When received by a mine operator, the report must be immediately posted on the mine bulletin board for at least 31 days so all coal miners will know the dust levels to which they were exposed (§§ 70.210(b) and 71.210(b)). For part 90 sampling results, the mine operator must provide the report to the affected miner (§ 90.210(b)).

When a change occurs in the operational status of any designated sampling entity or with the part 90 miners that affects the operator's ability to fulfill his/her sampling responsibilities, §§ 70.220(a), 71.220(a), and 90.220 require the operator to report changes in operational status to MSHA in writing within 3 working days of the status change.

When MSHA analyzes samples and if the results exceed the applicable dust standard, the operator is either cited for violating the dust standard and assessed a civil penalty (MMUs only) or is required to submit five additional samples. These additional samples averaged to determine whether operator is complying with the applicable standard. If the average exceeds the standard, MSHA will issue a citation for excessive dust. To abate an excessive dust violation, §§ 70.201(d), 71.201(d), and 90.201(d) require the operator to take corrective action and reduce dust concentrations to the appropriate levels and then sample the affected MMU, DA, DWP, or part 90 miner until five valid respirable dust samples are collected and submitted to MSHA for processing. The results of these samples determine if the operator was successful in correcting the excessive dust condition.

Sections 71.300 and 90.300 (affecting surface operations and part 90 miners) 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 dust standard. Such a plan describes the specific dust control measures used by an operator to abate the dust violation and how each control measure will be used to ensure continued compliance.

Lastly, § 71.301(d) requires the approved dust control plan to be posted 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 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 processing, the reporting of when such samples will be taken when District Manager requests, and the reporting of any changes in operation status affecting sampling is vital to effectively administer and assess the effectiveness of the operator sampling program. MSHA has used the information received from the current collection not only to determine which mine operators have fully complied with the sampling provisions stipulated in the regulations but also which failed to adequately protect miners from excessive dust concentrations and needed to take appropriate measures to improve the quality of the mine air that miners breathe. Also, once the dust samples submitted by coal mine operators are processed by MSHA, it uses the collected information for reporting the results of respirable dust samples to the appropriate mine operators under §§ 70.210(a), 71.210(a) and 90.210(a), so that the results can be posted on the mine bulletin board for viewing by all miners as required by §§ 70.210(b) and 71.210(b). These results enable the Agency to more effectively evaluate the adequacy of the operator's dust control systems, to identify mine operators for targeted enforcement activities, and to plan and undertake special health emphasis initiatives.

Mine operators whose samples exceed the applicable standard are either notified to submit additional samples (involving DA, DWP, or Part 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. If it involves a part 90 miner, § 90.301(d) requires the mine operator to provide a copy of the dust control plan directly to the affected part 90 miner. 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 standards.

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 dust data cards. 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 recorded on the dust data card provides important details about the sample, when and where it was collected, the production conditions in effect during sampling, and who was responsible for certifying that it was properly collected. Consequently, this particular information collection technique does not lend itself to electronic submission. However, mine operators submit up to 90% of sampling dates (§§ 70.201(c), 71.201(c), and 90.201(c)), status change reports (§§ 70.220(a), 71.220(a), and 90.220), and respirable dust control plans (§§ 71.300 and 90.300) electronically. These electronic submissions account for about 16% of the total responses received.

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.

A mine operator completes a dust data card for each individual dust sample collected and submitted to MSHA to demonstrate that his or her mine is free of excessive dust concentrations and, therefore, is complying with mandatory exposure limits. Without these samples and the accompanying specified information about each sample and the production conditions in effect during sampling, MSHA could not ascertain a mine operator's compliance with mandatory dust exposure limits. While MSHA also conducts dust sampling periodically, its purpose is to not only to supplement the operator's sampling program but also 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 as the occupation at risk of being exposed to the highest dust concentrations; (3) determine if excessive levels of quartz are present which would require the dust standard to be reduced further to be more protective; and (4) identify work positions at surface mines or surface areas of underground mines that should be designated for routine bimonthly monitoring by coal mine operators. Since the purpose of MSHA and operator sampling have somewhat different objectives, there is no duplication of effort. MSHA knows of no other federal, state, or local agency that collects similar information on dust samples

required for compliance purposes or 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.

These information collection requirements are imposed on all coal mining operations and not have a greater impact on small businesses or other small entities. However, MSHA believes that the burden on small mines could not be reduced without adversely affecting MSHA's dust control enforcement efforts.

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 monitored on a routine basis to ensure that it is free of excessive dust levels to prevent development of CWP. Therefore, Mine Act and its implementing regulations require specific occupations, miners, and work locations be sampled by mine operators every 2 months (bimonthly). Since the frequency at which mine operators currently sample represents a very small percentage of the available shifts worked during a two-month period, monitoring the quality of the mine air that miners breathe less frequently would provide an inadequate snap shot of the dust conditions to which miners are normally exposed, thus increasing the likelihood for excessive dust conditions to go undetected. Consequently, the health of miners would be adversely impacted if excessive dust concentrations could not be detected and properly acted on. Failing to identify where, when, by whom, and under what production conditions specific samples were collected would render the sampling results meaningless and of no practical value.

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;**
- **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, under §§ 70.207, 70.208, 71.208, and 90.208, MSHA requires mine operators to submit compliance samples bimonthly and under §§ 70.201, 71.201, and 90.201, mine operators submit abatement samples following issuance of a citation for the sole purpose of demonstrating that their workplaces are free of excessive dust concentrations and in compliance with mandatory dust exposure limits. Also, if the operational status of a designated sampling entity or the part 90 miner 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 require the operator report any status changes in writing within 3 days after the status change occurs. Proper notification prevents MSHA from taking unnecessary enforcement actions against mine operators for failing to submit the required number of dust samples during a bimonthly period.

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 basis 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.

MSHA published a 60-day preclearance Federal Register notice on April 30, (Volume 74, Number 82, Pages 19988-19989 soliciting public comments regarding the extension of this information collection. No comments were received.

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

MSHA does not 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.

All records pertaining to Part 90 miners are kept confidential and stored in locked cabinets at applicable District Offices, and accessed only by authorized individuals. For the information collected under part 70, 71, and 90 that is entered into the MSHA Standard Information System (MSIS), only authorized persons have access to the information in this system.

No other assurances of confidentiality are provided. 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.**
- **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 responses for this submission is 41,000 from 830 unique respondents (mining operations).

30 CFR 70.209, 71.209, and 90.209: During the past three fiscal years (FY'08 - '06), MSHA processed an average of 41,000 dust data cards annually from some 570 underground mines and 316 surface mines and facilities (FY'08: 41, 587 data cards from 857 respondents; FY'07: 40, 872 data cards from 887 respondents; FY'06: 40, 533 data cards from 913 respondents), or approximately the same as was projected in the previous submission. Based on the Agency's recent experience, and given the coal

supply and demand situation arising from the global economic slowdown, the number of dust data cards it expects to receive and process in the near term will be approximately 41,000 annually from approximately 830 unique respondents, based on the 3.1% average annual decline in respondents since FY'06. Of this total, approximately two-thirds or 27,350 data cards will be submitted by mine operators doing their own sampling; 10,850 by operators who rent the sampling equipment from outside parties; and the remaining 2,800 by independent contractors. The cost of equipment rental and contractor sampling services is included in Item 13. MSHA estimates that it requires approximately 35 minutes (0.58 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 \$26.23 per hour. A mine supervisor, earning an average of \$73.25 per hour, normally monitors the operation of the sampler unit during the shift. It is estimated that, for operators doing their own sampling, it will take a technician, earning \$26.23 per hour, approximately 10 minutes (0.17 hour) to complete and sign each dust data card.

Hour Burden

| | | |
|---|---|--------------------|
| 27,350 samples x 0.58 hrs. | = | 15,863 hrs. |
| 27,350 + 10,850 samples x 0.17 hr. (monitoring) | = | 6,494 hrs. |
| 27,350 + 10,850 samples x 0.17 hr. (complete and sign data card) | = | <u>6,494 hrs.</u> |
| Subtotal | = | 28,851 hrs. |

Hour Burden Cost

| | | |
|-----------------------|------|------------------|
| 15,863 hrs. x \$26.23 | = \$ | 416,086 |
| 6,494 hrs. x \$73.25 | = \$ | 475,686 |
| 6,494 hrs. x \$26.23 | = \$ | <u>170,338</u> |
| Subtotal | = \$ | 1,062,110 |

30 CFR 70.201(c), 71.201(c), and 90.201(c): If MSHA chooses to observe operator sampling, these requirements 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 requesting and receiving sampling schedules from approximately 75% of the projected underground respondents (531 or 64% of 830 total respondents) or 398 schedules on average per year, beginning in FY 2009. MSHA estimates that it will take a mine supervisor, earning \$73.25 per hour, an average of 20 minutes (0.33 hour) to prepare a bimonthly sampling schedule, and a mine clerk, earning \$26.23 per hour,

another 10 minutes (0.17 hour) to type and either mail, fax, or transmit electronically the schedule to the MSHA District Office.

Hour Burden

| | | |
|--------------------------|---|-----------------|
| 398 schedules x 0.33 hr. | = | 131 hrs. |
| 398 schedules x 0.17 hr. | = | <u>68 hrs.</u> |
| Subtotal | = | 199 hrs. |

Hour Burden Cost

| | | |
|--------------------|------|---------------|
| 131 hrs. x \$73.25 | = \$ | 9,596 |
| 68 hrs. x \$26.23 | = \$ | <u>1,784</u> |
| Subtotal | = \$ | 11,380 |

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. To become certified, an individual must pass the MSHA examination on sampling of respirable coal mine dust. The Agency estimates that it will certify approximately 400 individuals in FY 2009. Of these, 40 individuals (15 mine supervisors earning \$73.25 per hour and 35 technicians earning \$26.23 per hour) will take both the training class and the certification exam (avg. 8 hours in length), while the remaining 360 individuals (120 mine supervisors; 120 miners earning \$34.17 per hour; and 120 technicians) will opt for taking the examination only (avg. 2 hours).

Hour Burden

| | | |
|-------------------------------|---|-------------------|
| 15 mine supervisors x 8 hrs. | = | 120 hrs. |
| 25 technicians x 8 hrs. | = | 200 hrs. |
| 120 mine supervisors x 2 hrs. | = | 240 hrs. |
| 120 miners x 2 hrs. | = | 240 hrs. |
| 120 technicians x 2 hrs. | = | <u>240 hrs.</u> |
| Subtotal | = | 1,040 hrs. |

Hour Burden Cost

| | | |
|--------------------|------|---------------|
| 120 hrs. x \$73.25 | = \$ | 8,790 |
| 200 hrs. x \$26.23 | = \$ | 5,246 |
| 240 hrs. x \$73.25 | = \$ | 17,580 |
| 240 hrs. x \$34.17 | = \$ | 8,201 |
| 240 hrs. x \$26.23 | = \$ | <u>6,295</u> |
| Subtotal | = \$ | 46,112 |

30 CFR 70.210(b) and 71.210(b): Upon receipt of the results of dust sampling from MSHA, the operator must post the report for at least 31 days on the mine bulletin board so that it can be viewed by all affected coal miners. Based on the types of entities required to be sampled bimonthly (during the 2nd quarter of FY'09: Mechanized Mining Units - 949; Designated Areas - 996; Part 90 miners - 74; and Designated Work Positions - 360), and historical experience, each will require a report of sampling results to be generated by MSHA every two months. MSHA projects that it will generate approximately 15,000 sampling reports annually. It will take a mine clerk, earning \$25.23 per hour, an average of 5 minutes (0.083 hour) to post it on the mine bulletin board.

Hour Burden

$$15,000 \text{ reports} \times 0.083 \text{ hr.} = \mathbf{1,245 \text{ hrs.}}$$

Hour Burden Cost

$$1,245 \text{ hrs.} \times \$25.23 = \$ \mathbf{31,411}$$

30 CFR 70.220(a), 71.220(a), and 90.220: 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. According to MSHA records, some 2,380 entities were in sampling status during the 2nd quarter of FY'09. It anticipates receiving on average approximately 3 status changes per entity per year or 7,140 annually. It will take a mine supervisor, earning \$73.25 per hour, an average of 5 minutes (0.083 hour) to prepare a status change report and a mine clerk, earning \$25.23 per hour, an average of 10 minutes (0.17 hour) to type and transmit by mail or electronically the report to MSHA .

Hour Burden

$$7,140 \text{ reports} \times 0.083 \text{ hr.} = 593 \text{ hrs.}$$

$$7,140 \text{ reports} \times 0.17 \text{ hr.} = \underline{1,214 \text{ hrs.}}$$

$$\mathbf{\text{Subtotal}} = \mathbf{1,807 \text{ hrs.}}$$

Hour Burden Cost

$$593 \text{ hrs.} \times \$73.25 = \$ 43,437$$

$$1,214 \text{ hrs.} \times \$25.23 = \$ \underline{30,629}$$

$$\mathbf{\text{Subtotal}} = \$ \mathbf{74,066}$$

30 CFR 71.300: In FY 2008, MSHA issued 16 excessive dust citations under §§ 71.100 or 71.101, which required the operator to either submit a new or revised dust control plan

following termination of each citation. Since the Agency anticipates issuing annually approximately the same number of citations as issued in FY 2008, 9 new and 7 revised dust control plans are expected to be submitted under § 71.300. It will take a mine supervisor, earning \$73.25 per hour, an average of 3 hours to prepare a new dust control plan and 1.5 hours to revise an existing plan, and a mine clerk, earning \$25.23 per hour, an average of 10 minutes (0.17 hour) to copy and transmit by mail or electronically to MSHA for review and approval.

Hour Burden

| | | |
|------------------------------|---|----------------|
| 9 plans (new) x 3 hrs. | = | 27 hrs. |
| 7 plans (revised) x 1.5 hrs. | = | 11 hrs. |
| 16 plans x 0.17 hr. | = | <u>3 hrs.</u> |
| Subtotal | = | 41 hrs. |

Hour Burden Cost

| | | |
|-------------------|------|--------------|
| 27 hrs. x \$73.25 | = \$ | 1,978 |
| 11 hrs. x \$73.25 | = \$ | 806 |
| 3 hrs. x \$25.23 | = \$ | <u>76</u> |
| Subtotal | = \$ | 2,860 |

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 \$25.23 per hour, an average of 15 minutes (0.25 hour).

Hour Burden

| | | |
|---------------------|---|---------------|
| 16 plans x 0.25 hr. | = | 4 hrs. |
|---------------------|---|---------------|

Hour Burden Cost

| | | |
|------------------|------|------------|
| 4 hrs. x \$25.23 | = \$ | 101 |
|------------------|------|------------|

30 CFR 90.300: Based on the number of citations issued for violation of the applicable dust standard under §§ 90.100 or 90.101 in FY 2008, MSHA anticipates that in FY 2009 and beyond, operators will submit approximately 2 new and 2 revised dust control plan under § 90.300. The Agency estimates that it will take a mine supervisor, earning \$73.25 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 \$25.23 per hour, an average of 10 minutes (0.17 hour) to copy and transmit electronically or mail the plan to MSHA for review and approval.

Hour Burden

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| | | |
|-------------------------------|---|----------------|
| 2 plans (new) x 3 hrs. | = | 6 hrs. |
| 2 plans (revised) x 1.25 hrs. | = | 3 hrs. |
| 4 plans x 0.17 hr. | = | <u>1 hr.</u> |
| Subtotal | = | 10 hrs. |

Hour Burden Cost

| | | |
|------------------|------|------------|
| 9 hrs. x \$73.25 | = \$ | 659 |
| 1 hr. x \$25.23 | = \$ | <u>26</u> |
| Subtotal | = \$ | 685 |

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 \$25.23 per hour, an average of 10 minutes (0.17 hour) to copy the plan and a mine supervisor, earning \$73.25 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

| | | |
|--------------------|---|---------------|
| 4 plans x 0.17 hr. | = | 1 hr. |
| 4 plans x 0.25 hr. | = | <u>1 hr.</u> |
| Subtotal | = | 2 hrs. |

Hour Burden Cost

| | | |
|-----------------|------|------------|
| 1 hr. x \$73.25 | = \$ | 74 |
| 1 hr. x \$25.23 | = \$ | <u>26</u> |
| Subtotal | = \$ | 100 |

| | | |
|-------------------------------|------|------------------|
| Total Hour Burden | = | 33,199 |
| Total Hour Burden Cost | = \$ | 1,228,825 |

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.

Sections 70.204(a), 71.204(a), and 90.204(a), require that approved sampling devices be maintained as approved under 30 CFR part 74 and calibrated in accordance with MSHA Informational Report No. 1240.

(a) The cost to mine operators to obtain the necessary equipment to conduct the required sampling is estimated (annualized) to be:

| | | |
|--|-------------|------------------|
| 27,350 dust cassettes x \$19.89 ea. | = \$ | 543,992 |
| 2,050 pumps x \$975 x 0.142(10-yr. life) | = \$ | 283,823 |
| 3,100 sampling-head assemblies x \$234 ea x 0.381(3-yr. life) | = \$ | 276,377 |
| 2,050 battery chargers x \$80 ea. x 0.244(5-yr. life) | = \$ | 40,016 |
| 1,000 spare battery packs x \$277 ea. x 0.381(3-yr. life) | = \$ | 105,537 |
| 150 fast-response pump calibrators x \$1,403 ea x 0.244(5-yr. life) | = \$ | <u>51,350</u> |
| Subtotal | = \$ | 1,301,095 |

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

| | | |
|---|------|------------------|
| 2,050 pumps x \$300 for maint & repair | = \$ | 615,000 |
| 10,850 dust samples x \$100 per sample (collected by operator using equip. + cassette supplied by contractor) | = \$ | 1,085,000 |
| 2,800 dust samples x \$250 per sample (collected by contractor) | = \$ | <u>700,000</u> |
| Subtotal | = \$ | 2,400,000 |

Sections 70.204 (b) and (c), 71.204 (b) and (c), and 90.204 (b) and (c) 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 2,050 sampling pumps are being used by mine operators today, and approximately one third or 677 of these will need to be calibrated annually. Approximately 20% of the calibrations (involving some 135 pumps) will be performed by a certified dust technician, earning approximately \$26.33 per hour, and that each calibration takes about 35 minutes (0.58 hour) to complete. The remaining 542 dust pumps will be calibrated by an outside facility.

| | | |
|-----------------------------------|------|---------------|
| 135 pumps x 0.58 hr. x \$26.33 | = \$ | 2,062 |
| 542 pumps x \$150 per calibration | = \$ | <u>81,300</u> |
| Subtotal | = \$ | 83,362 |

The average postage cost for mailing a dust sample along with its data card in the pre-addressed mailer is approximately \$1.34 per sample.

| | | |
|-------------------------|------|---------------|
| 41,000 samples x \$1.34 | = \$ | <u>54,940</u> |
| Subtotal | = \$ | 54,940 |

Mailing Costs:

The average postage cost for the operator to report changes in the operations status is \$.44. Approximately 90% of the reports are submitted electronically; the remainder are mailed.

| | | |
|--------------------------------------|------|-----|
| 7,140 reports x 10% (mailed) x \$.44 | = \$ | 314 |
|--------------------------------------|------|-----|

The average postage cost for an operator to mail a new or revised plan is \$.88. Approximately 90% of the plans are submitted electronically; the remainder are mailed.

| | | |
|---------------------------------|------|---|
| 14 plans x 10% (mailed) x \$.88 | = \$ | 1 |
|---------------------------------|------|---|

The average postage cost for the operator to provide a copy of the plan to an affected Part 90 miner is \$.88.

| | | |
|---------------------------------|------|------------------|
| 4 plans x 10% (mailed) x \$.88 | = \$ | <u>1</u> |
| Subtotal | = \$ | 316 |
| Total annual cost burden | = \$ | 3,839,714 |

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 processing of incoming samples involving sample preparation, weighing, 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 by weighing 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 Denver, Colorado for processing. There, the transmitted information is processed, which involves checking the information for accuracy and completeness, performing the required calculations of average concentration, and producing various computer-generated reports called data mailers. 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 any required follow-up action.

Sample processing and data transmission to main frame:

| | | |
|--|------|---------|
| MSHA personnel cost | = \$ | 150,000 |
| Equipment and annual maintenance cost (vacuum pump, robotic weighing system, analytical balances, and PCs) | = \$ | 20,000 |

| | | |
|--------------------------------------|------|----------------|
| Misc. supplies (labels, paper, etc.) | = \$ | <u>1,000</u> |
| Subtotal | = \$ | 171,000 |

Data processing and reporting of results to mine operators:

| | | |
|--|------|----------------|
| MSHA personnel cost | = \$ | 148,212 |
| Contractor Staff | = \$ | 116,167 |
| Maintenance (Software licensing, printer, and supplies) | = \$ | 4,660 |
| Data mailers (35,000 mailers x \$0.17) | = \$ | 5,950 |
| Postage (35,000 x \$0.83) | = \$ | <u>29,050</u> |
| Subtotal | = \$ | 304,039 |

30 CFR 70.201(c), 71.201(c), and 90.201(c): MSHA expects to issue some 100 requests for sampling schedules beginning in FY 2010, and expects to receive approximately 398 responses from mine operators, as some mine operators submit schedules automatically. It will take an Agency clerk, earning \$15.54 per hour (GS-5/7), an average of 15 minutes (0.25 hour) to type and mail each request, and an average of 10 minutes (0.17 hour) to process each operator response; and an Agency health supervisor, earning \$38.35 per hour (GS 13/5), and average of 15 minutes (0.25 hour) to review and distribute each response to respective field offices for follow-up action.

Hour Burden

| | | |
|--------------------------|---|-----------------|
| 100 requests x 0.25 hr. | = | 25 hrs. |
| 398 responses x 0.17 hr. | = | 68 hrs. |
| 398 responses x 0.25 hr. | = | <u>100 hrs.</u> |
| Subtotal | = | 193 hrs. |

Hour Burden Cost

| | | |
|--------------------|------|--------------|
| 93 hrs. x \$15.54 | = \$ | 1,445 |
| 100 hrs. x \$38.35 | = \$ | <u>3,835</u> |
| Subtotal | = \$ | 5,280 |

30 CFR 70.220(a), 71.220(a), and 90.220: 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. MSHA expects to process approximately 7,140 status change reports annually, beginning in FY 2009. 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 upon receiving an advisory from Denver

notifying the responsible MSHA office of an operator's failure to submit the required number of respirable dust samples. It will take an Agency clerk, earning \$15.54 per hour, and average of 5 minutes (0.083 hour) to process and file each report.

Hour Burden

| | | |
|---|---|-----------------|
| 7,140 status change reports x 0.083 hr. | = | <u>593 hrs.</u> |
| Subtotal | = | 593 hrs. |

Hour Burden Cost

| | | |
|--------------------|------|--------------|
| 593 hrs. x \$15.54 | = \$ | <u>9,215</u> |
| Subtotal | = \$ | 9,215 |

30 CFR 71.300: As a result of citations issued for violations of the applicable dust standard under §§ 71.100 and 71.101, based on MSHA's experience in FY'08, the Agency anticipates that mine operators will submit 9 new and 7 revised dust control plans under § 71.300 annually, beginning with FY'09. It will take an Agency health supervisor, earning \$38.35 per hour, 45 minutes (0.75 hour) to review the average plan (new) and 30 minutes (0.5 hour) per revision, and an Agency clerk, earning \$15.54 per hour, another 45 minutes (0.75 hour) to process a plan (new or revised).

Hour Burden

| | | |
|----------------------------|---|----------------|
| 9 plans (new) x 0.75 hr. | = | 7 hrs. |
| 7 plan (revised) x 0.5 hr. | = | 4 hrs. |
| 16 plans x 0.75 hr. | = | <u>12 hrs.</u> |
| Subtotal | = | 23 hrs. |

Hour Burden Cost

| | | |
|-------------------|------|------------|
| 11 hrs. x \$38.35 | = \$ | 422 |
| 12 hrs. x \$15.54 | = \$ | <u>186</u> |
| Subtotal | = \$ | 608 |

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 anticipates the submission of 2 new and 2 revised respirable dust control plans annually under § 90.300, beginning in FY'09. It will take an MSHA health supervisor, earning \$38.35 per hour, 45 minutes (0.75 hour) to review the average new plan and 30 minutes (0.5) per revision, and an Agency clerk, earning \$15.54 per hour, another 45 minutes (0.75 hour) to process a Part 90 miner dust control plan (new or revised).

Hour Burden

| | | |
|--------------------------|---|--------|
| 2 plans (new) x 0.75 hr. | = | 2 hrs. |
|--------------------------|---|--------|

| | | |
|----------------------------|---|---------------|
| 2 plan (revised) x 0.5 hr. | = | 1 hr. |
| 4 plans x 0.75 | = | <u>3 hrs.</u> |
| Subtotal | = | 6 hrs. |

Hour Burden Cost

| | | |
|------------------|------|------------|
| 3 hrs. x \$38.35 | = \$ | 115 |
| 3 hrs. x \$15.54 | = \$ | <u>47</u> |
| Subtotal | = \$ | 162 |

Total Annualized Cost to Federal Government = \$ 490,304

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

Responses, Respondents: While the overall number of responses (41,000) is expected to remain fairly steady, MSHA is projecting a decrease in the number of unique respondents (from 886 to 830) due to the reduction in the less productive and marginal mining operations as coal prices and exports continue to decline.

Burden hours: The slight increase in burden hours of 324 hours, or one percent, are higher compared to the previous submission (33, 199 hrs. vs. 32,875 hrs.) due to the projected increase in the number certifications for dust sampling to more accurately reflect the number of individuals that were actually certified in the recent past.

Costs: There is an \$850,714 increase in costs projected (\$3,839,714 vs. \$2,989,000). Although the number of responses is projected to remain unchanged from the previous submission, the cost of sampling equipment, and related operational, maintenance and contract services cost have increased substantially since the last submission.

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 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 by MSHA to plan enforcement activities and evaluate programs, and by NIOSH to monitor effectiveness of dust controls, plan and undertake dust control research initiatives, and assess trends in disease prevention, but the underlying purpose is to monitor compliance with mandatory 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 on the dust data card. 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. However, the OMB approval number, including the expiration date, is published for public viewing on the OMB's website, the Federal Regulatory Information page at <http://www.reginfo.gov/public/do/PRAMain> Select "Department of Labor" under the Current Inventory selection box and scroll to the OMB approval number.

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.

This collection 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.