

1219-0NEW  
ICR Reference Number 201012-1219-003  
Associated RIN: 1219-AB64

NOTE TO REVIEWER

Several provisions in this collection would impact MSHA's existing ICs; i.e., 1219-0011, 1219-0048, and 1219-0088. The following is a list of how the proposed rule would impact MSHA's existing ICs.

The proposed sections that contain information collection requirements with new burden in the proposed rule are as follows:

IC # 1219-0011	§§ 70.201(g), (i), (k); 70.206(a), (a)(1), (a)(3), (c), (c)(1), (c)(3), (d); 70.207(c)(2), (g)(2), (h), (i)(3); 70.208(f)(3), (f)(4), (f)(5), (g)(3), (g)(4), (h); 70.209(b)(2), (e)(2), (f), (g)(3), (g)(4); 70.210(c), (f); 70.211(b), (c); 70.212(c); §§ 71.201(d), (h); 71.206(a), (a)(1), (a)(3), (c)(1), (c)(3), (d); 71.207(c), (k)(2), (k)(4), (l), (n)(2); 71.208(c), (f); 71.209(b), (c); 71.210(c); 71.300(a), (a)(1), (a)(3); 71.301(d)(1), (d)(3); §§ 72.100(d), (e); §§ 90.201(f), (i); 90.206(a), (b), (d), (e); 90.208(e)(2), (f), (g)(3); 90.209(e)(3), (e)(4), (e)(5), (f)(3), (f)(4); 90.210(c), (f); 90.211(b), (c); 90.212(b); 90.300(a); 90.301(d)
IC # 1219-0048	§ 72.700(c)
IC #1219-0088	§§ 75.362(a)(2), (g)(2)(ii), (g)(3), (g)(4)

However, to expedite the review of the information collection requirements contained in this proposed rule, MSHA is requesting approval of a new information collection. The supporting statement identifies how the proposed requirements would impact the existing ICs. MSHA plans to integrate the proposed requirements into the existing packages when the packages come due for the three-year renewals.

In this analysis, burden hours are reported in total without regard to mine size for those proposed provisions where the time to perform the burden activity does not vary by mine size. Otherwise, a breakdown of burden hours are reported by mine size for those proposed provisions where the time to perform the burden activity varies by mine size.

\* Note: § 72.100(d), (e) contains paperwork requirements that are the same as those in the NIOSH paperwork requirements under 42 CFR 37.4 (IC# 0920-AA21). This is a new paperwork requirement for MSHA because the proposal expands the requirements.

## SUPPORTING STATEMENT

### **Proposed Rule: Lowering Miners' Exposure to Coal Mine Dust Including Continuous Personal Dust Monitors**

#### **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 pulmonary illness, ranging from mild impairment of lung function, chronic obstructive pulmonary disease (COPD), and pneumoconioses, such as coal workers' pneumoconiosis (CWP) and progressive massive fibrosis (PMF). These occupational lung diseases are debilitating, and in severe cases, disabling and fatal. Severe forms of CWP continue to be identified even though occupational dust exposures have been significantly reduced since 1970. Data from the Coal Workers' Health Surveillance Programs administered by the National Institute for Occupational Safety and Health (NIOSH) 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 dependents of miners received \$581 million in "black lung" benefits. 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. § 842(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 at or below 2.0 milligrams of respirable dust per cubic meter of air in the mine atmosphere where they normally work or travel. Also, under 30 CFR part 90, any coal miner who has early evidence of the development of CWP and elects to work in a low-dust environment (Part 90 miner) cannot be exposed to levels of coal dust above a reduced standard.

This proposed rule includes new information collection requirements that add to the existing burden and costs of three information collection packages: 1219-0011, 1219-0048, and 1219-0088. These proposed requirements are discussed below.

*IC 1219-0011 – Mine Operator Dust Data Card*

There are many recordkeeping requirements included in proposed Part 70 – Mandatory Health Standards for Underground Coal Mines. Many of these changes result from the implementation of the use of the continuous personal dust monitor (CPDM) to sample for respirable dust. Similar recordkeeping requirements are also proposed for Part 71 – Mandatory Health Standards for Surface Coal Mines and Surface Work Areas of Underground Coal Mines and Part 90 – Mandatory Health Standards for Coal Miners Who Have Evidence of the Development of Pneumoconiosis. In addition, there are two new paperwork requirements in proposed § 72.100 that address records for medical examinations for both underground and surface coal miners.

#### Part 70 – Mandatory Health Standards for Underground Coal Mines

Proposed §§ 70.201(g), (i), and (k) would require mine operators to make and keep records of their coal dust sampling program. Proposed paragraph (g) would require that records showing the length of each production shift for each mechanized mining unit (MMU) be made by the mine operator and retained for at least six months. Proposed paragraph (i) would require that mine operators record the amount of run-of-mine material (coal and rock) produced by each MMU during each shift to determine the average production for the most recent 30 production shifts or for the most recent production shifts if fewer than 30 shifts of production data are available in order to determine what a normal production shift is for each mine. Production records would be retained for at least six months. Proposed paragraph (k) would require that mine operators keep a record of training provided to miners on the use of the CPDM. Such records would be kept at the mine site for two years after completion of the training. Records under proposed paragraph (g) would be submitted to the District Manager when requested in writing.

Proposed § 70.206 would require mine operators to develop and implement a CPDM Performance Plan. Various sections include provisions with recordkeeping requirements (§§ 70.206(a), (a)(1), (a)(3), (c), (c)(1), (c)(3), and (d)). Proposed paragraph (a) would require that to use the CPDM, a mine operator must have an approved CPDM Performance Plan to ensure that no miner working on an MMU would be exposed to concentrations of respirable coal mine dust in excess of the applicable standard. The operator would develop a proposed CPDM Performance Plan and submit it to the District Manager for approval. The proposed plan would not be implemented until approved by the District Manager. Under proposed paragraph (a)(1), the mine operator would notify the representative of miners at least 5 days prior to submission of a proposed CPDM Performance Plan and any proposed revision to a CPDM Performance Plan. The mine operator would provide a copy of the plan at that time to the representative of miners, if requested. Proposed paragraph (a)(3) would require that a copy of the CPDM Performance Plan, and a copy of any proposed revisions submitted for approval be posted on the mine bulletin board at the time of submittal and remain posted until approved, withdrawn or denied. Proposed paragraph (c) would require that the approved CPDM performance plan and any revisions be provided upon request to the representative of miners by the operator following notification of approval (proposed paragraph (c)(1)), and posted on the mine bulletin board within 1 working day following notification of approval (proposed paragraph (c)(3)). The plan would remain posted for as long as it is in effect. Proposed paragraph (d) would require that the plan be revised

if it is determined by the District Manager that the plan is inadequate to protect miners from exposure to concentrations of respirable dust in excess of the applicable standard.

Proposed § 70.207 specifies the procedures that mine operators would need to implement to use the coal mine dust personal sampling unit (CMDPSU) as part of their dust sampling program. The recordkeeping requirements are contained in proposed §§ 70.207(c)(2), (g)(2), (h), and (i) (3). Proposed paragraph (c)(2) would require when the dust standard is reduced due to the presence of respirable quartz dust, that if any sampling result from the most recent bimonthly sampling period is above the new applicable standard, the operator make necessary adjustments to the dust control parameters in the mine ventilation plan within 3 days and then collect samples from the affected MMU on consecutive normal production shifts until five valid representative samples are collected. Proposed paragraph (g)(2) would require that the mine operator submit to the District Manager for approval proposed corrective actions to lower the concentration of respirable dust to within the applicable standard. Proposed paragraph (h) would require the operator to submit revised dust control parameters to the District Manager as part of the mine ventilation plan applicable to the MMU listed in the citation. Proposed paragraph (i)(3) would require that the mine operator record the corrective actions taken when one or more valid samples are above the applicable standard but below the excessive concentration value (ECV). The record would be made in the same manner as the records for hazards required by existing 30 CFR § 75.363.

Proposed § 70.208 would require that mine operators record certain actions when sampling MMUs with a CPDM (§§ 70.208(f)(3), (f)(4), (f)(5), (g)(3), (g)(4), and (h)). The three recordkeeping requirements contained in proposed § 70.208(f) relate to situations when valid sampling indicates miners' dust exposures meet or exceed the applicable ECV or the weekly accumulated exposure exceeds the weekly permissible accumulated exposure. Under proposed paragraph (f)(3), mine operators would submit to the District Manager for approval, within 3 days of determining that the applicable standard was exceeded, the corrective actions implemented to lower the concentration of respirable dust to within the applicable standard as a proposed change to the approved ventilation plan. Under proposed paragraph (f)(4), within 7 calendar days following posting of the end-of-shift equivalent concentration measurement or weekly accumulated exposure on the mine bulletin board, mine operators would review and submit to the District Manager for approval any CPDM Performance Plan revisions. Under paragraph (f)(5), the mine operator would record the reported excessive dust concentration as part of and in the same manner as records for hazardous conditions required by § 75.363. The recordkeeping requirement in proposed § 70.208(g) specifies the actions the mine operator would need to take when a valid end-of-shift equivalent concentration measurement exceeds the applicable standard but is below the applicable ECV. Under proposed paragraph (g)(3), the reported excessive dust condition as part of and in the same manner as the records for hazardous conditions required by existing 30 CFR § 75.363. The record would include the date of sampling; the length of the sampled shift; the location within the mine and the occupation where the sample was collected; the end-of-shift equivalent concentration; and the corrective action taken to reduce the concentration of respirable coal mine dust to or below the applicable standard. Proposed § 70.208(g)(4) would required the mine operator to review the adequacy of the approved CPDM Performance Plan and submit to the District Manager for approval any plan

revisions with 7 calendar days following posting of the end-of-shift equivalent concentration measurement on the mine bulletin board.

Proposed § 70.208(h) would apply only for a period of 24 months following the effective date of the rule, and would apply in the limited circumstance when a mine operator is not able to maintain compliance with the applicable standard for an MMU. Mine operators could request through the District Manager that the Administrator for Coal Mine Safety and Health approve the use of supplementary controls for a period not to exceed 6 months. The operator would provide the Administrator with a report that 1) evaluates the specific situation in the MMU, 2) outlines all controls that will be used during this time period to prevent miners from being exposed to concentrations exceeding the applicable standard, 3) addresses the actions that would be taken to reduce miners' exposures through the use of engineering and environmental controls, and 4) establishes the time line for the implementation of the engineering and environmental controls. The District Manager would address this request through the approval process associated with the mine ventilation plan.

Proposed § 70.209 would require sampling of designated areas (DAs) and contain five recordkeeping requirements (§§ 70.209(b)(2), (e)(2), (f), (g)(3), and (g)(4)). Proposed paragraph (b)(2) would require that when the dust standard is reduced due to the presence of respirable quartz dust, if any sample from the most recent quarterly sampling period is above the new applicable standard, the operator make necessary adjustments to the dust control parameters in the mine ventilation plan within 3 days and then collect samples from the affected DA on consecutive shifts until 5 valid representative samples are collected. Proposed paragraph (e) would specify the actions the mine operator would take during the time for abatement fixed in a citation for violation of the applicable standard. Proposed paragraph (e)(2) would require the operator to submit to the District Manager for approval that would lower the concentration of respirable dust to within the applicable standard. Paragraph (f) would require that the operator submit to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the DA in the citation. The approved revised parameters would reflect the control measures used to abate the violation. The two recordkeeping requirements in proposed paragraph (g) pertain to actions the mine operator would need to complete when a valid end-of-shift equivalent concentration measurement exceeds the applicable standard but is below the applicable ECV. The mine operator would record the reported excessive dust condition under proposed paragraph (g)(3) as part of, and in the same manner as, the records for hazardous conditions required by existing 30 CFR § 75.363. The record would include the date of sampling; the length of the sampled shift; the location within the mine and the occupation where the sample was collected; the end-of-shift equivalent concentration; and the corrective action taken to reduce the concentration of respirable coal mine dust to or below the applicable standard. The mine operator would need to review the adequacy of the approved CPDM Performance Plan under proposed paragraph (g)(4) and submit to the District Manager for approval any plan revisions within 7 calendar days following posting of the end-of-shift equivalent concentration measurement on the mine bulletin board.

Proposed § 70.210 contains two recordkeeping requirements that relate to the transmission of

respirable dust samples to MSHA. Proposed paragraph (c) relates to sampling conducted using a CMDPSU and would require that a person certified in sampling complete the dust data card that is provided by the manufacturer for each filter cassette. It would also require the certified person who actually performed the required examinations during the sampling shift sign the dust data card. Proposed paragraph (f) relates to a recordkeeping requirement for the mine operator transmitting CPDM sample data to MSHA. The designated mine official would need to validate, certify, and transmit electronically once every calendar week all daily sample and error data file information collected during the previous calendar week (Sunday through Saturday) and stored in the CPDM. All CPDM data files transmitted to MSHA would be maintained by the operator for at least 12 months.

Proposed § 70.211 contains two recordkeeping requirements that address CMDPSU and CPDM sampling data and posting the results. Proposed paragraph (b) would require that upon receipt of the MSHA report of CMDPSU data on the operator's respirable dust samples, the operator post these data for at least 31 days on the mine bulletin board. Proposed paragraph (c) would require that mine operators using a CPDM must validate, certify, and post sampling data on a daily and weekly basis on the mine bulletin board for at least 15 calendar days.

Proposed § 70.212(c) contains a recordkeeping requirement for status changes that affect the operational readiness of any CPDM. The status change would be reported by the designated mine official to MSHA within 24 hours after the status change has occurred. Status changes could be reported in writing or electronically.

#### Part 71 – Mandatory Health Standards for Surface Coal Mines and Surface Work Areas of Underground Coal Mines

Proposed § 71.201 contains two recordkeeping requirements that would require mine operators to make and keep records of their coal dust sampling program. Proposed paragraph (d) would require that records showing the length of each normal work shift for each designated work position (DWP) be made and retained for at least six months. Proposed paragraph (h) would require that the mine operator keep at the mine site for two years of the CPDM training that miners receive. Records under proposed paragraph (d) would be submitted to the District Manager when requested in writing.

Proposed § 71.206 would require mine operators to develop and implement a CPDM Performance Plan. Various provisions of this section contain recordkeeping requirements (§§ 71.206(a), (a)(1), (a)(3), (c)(1), (c)(3), and (d)). Proposed paragraph (a) would require that to use the CPDM, a mine operator must have an approved CPDM Performance Plan to ensure that the regular duties of the DWP would not expose miners to concentrations of respirable coal mine dust in excess of the applicable standard. The operator would develop a proposed CPDM Performance Plan and submit it to the District Manager for approval. The proposed plan would not be implemented until approved. Under proposed paragraph (a)(1), the mine operator would notify the representative of miners at least 5 days prior to submission of a proposed CPDM Performance Plan and any proposed revision to an approved CPDM Performance Plan and provide a copy of the plan to the representative of miners if requested. Proposed paragraph (a)

(3) would require that a copy of the CPDM Performance Plan and any revisions submitted for approval be posted on the mine bulletin board at the time of submittal and remain posted until approved, withdrawn or denied. Proposed paragraph (c) would require that the approved CPDM performance plan and any revisions be provided upon request to the representative of miners by the operator following notification of approval (proposed paragraph (c)(1)), and posted on the mine bulletin board within 1 working day following notification of approval (proposed paragraph (c)(3)). The plan would remain posted for as long as it is in effect. Proposed paragraph (d) would require that the mine operator revise the approved plan if it is determined by the District Manager that the plan is inadequate to protect miners from exposure to concentrations of respirable dust in excess of the applicable standard.

Proposed § 71.207 specifies the procedures that mine operators would need to implement to sample designated work positions (DWP). This proposed section contains five recordkeeping requirements (§§ 71.207(c), (k)(2), (k)(4), (l), and (n)(2)). Proposed paragraph (c) would require that operators of mines with multiple work positions specified in proposed paragraphs (b)(2) (bulldozer operators) and (b)(3) (other positions designated for sampling by the District Manager) of this section sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator would provide the District Manager with a list identifying the specific work positions where DWP samples would be collected by: the effective date of this rule for current active mines; within 30 calendar days of a mine opening; or within 7 calendar days of a change in operational status that increases or reduces the number of active DWPs. Proposed paragraph (k) (2) would require that during the time for abatement fixed in a citation for violation of the applicable standard, the mine operator submit for approval to the District Manager proposed corrective actions to lower the concentration of respirable dust to within the applicable standard. In addition, under proposed paragraphs (k)(4) and (n)(2) the mine operator would review the adequacy of the approved CPDM Performance Plan if using a CPDM to meet DWP sampling requirements. The operator would submit any plan revisions to the District Manager for approval within 7 calendar days following posting of the end-of-shift equivalent concentration measurement on the mine bulletin board. Proposed paragraph (l) would require that mine operators who are in violation of the applicable standard submit to the District Manager for approval a proposed dust control plan applicable to the DWP, or proposed changes to the approved dust control plan, as prescribed in proposed § 71.300 within 15 calendar days after receipt of MSHA's sampling results. The proposal also would require that proposed plan parameters or proposed changes reflect the control measures used to abate the violation.

Proposed § 71.208 contains two recordkeeping requirements that address the transmission of respirable dust samples to MSHA. Proposed paragraph (c) would require that, if sampling is conducted using a CMDPSU, a person certified in sampling complete the dust data card that is provided by the manufacturer for each filter cassette. It would also require the certified person who actually performed the required examinations during the sampling shift sign the dust data card. If using a CPDM, proposed paragraph (f) would require that the designated mine official validate, certify and transmit electronically within 12 hours after the end of the last sampling shift for a DWP all sample and error data file information collected during the previous shifts

and stored in the CPDM. All CPDM data files transmitted to MSHA would be maintained by the operator for at least 12 months.

Proposed § 71.209 contains two recordkeeping requirements that address CMDPSU and CPDM sampling data and posting the results. Proposed paragraph (b) would require that upon receipt of the MSHA report of CMDPSU data on the operator's respirable dust samples, the operator post the data for at least 46 days on the mine bulletin board. Proposed paragraph (c) would require that if using a CPDM, the mine operator validate, certify and post the DWP end-of-shift sampling results on the mine bulletin board. This information would also be posted for at least 46 calendar days.

Proposed § 71.210 (c) contains a recordkeeping requirement for status changes that affect the operational readiness of any CPDM. The status change would be reported to MSHA within 24 hours after the status change occurred. Status changes could be reported in writing or electronically.

Proposed § 71.300 contains three recordkeeping requirements that address the mine operator's respirable dust control plan for a DWP (proposed §§ 71.300(a), (a)(1), and (a)(3)). Paragraph (a) would require that the operator submit to the District Manager for approval a written respirable dust control plan for a DWP when a citation is issued for a violation of the applicable dust standard, as required by proposed § 71.207(l). The respirable dust control plan and any revisions would need to be suitable to the conditions and the mining system used at the coal mine and be adequate to continuously maintain respirable dust within the applicable standard at the DWP. Proposed paragraph (a)(1) would require that the mine operator notify the representative of miners at least five days prior to submission of either a proposed respirable dust control plan or revision. If requested, the mine operator would provide a copy to the representative of miners at the time of notification. Paragraph (a)(3) would require a mine operator to post copies of the submitted proposed respirable dust control plan and any proposed revisions on the mine bulletin board. The proposed plan or proposed revision would remain posted until it is approved, withdrawn, or denied.

Proposed § 71.301 contains two recordkeeping requirements related to respirable dust control plans for DWPs approved by MSHA. Proposed paragraph (d)(1) would require that the approved respirable dust control plan and any revisions be provided upon request to the representative of miners by the operator following notification of MSHA approval. Proposed paragraph (d)(3) would require that the mine operator post the approved respirable dust control plan and any revisions within 1 working day on the mine bulletin board following notification of MSHA approval. The approved plan would remain posted for the period that it is in effect.

Part 72 – Health Standards for Coal Mines

The Mine Act authorizes NIOSH to study the causes and consequences of coal-related respiratory disease, and in cooperation with MSHA, to carry out a program for early detection and prevention of pneumoconiosis. NIOSH administers the National Coal Workers' Health Surveillance Program (CWHSP), as specified in the 42 CFR Part 37, "Specifications for Medical Examinations of Underground Coal Miners". Proposed § 72.100, Periodic examinations, would

expand this program to surface coal miners and add spirometry, symptom assessment, and occupational history to the required medical examinations. Proposed § 72.100(d) would require that each mine operator develop and submit for approval to the National Institute of Occupational Safety and Health (NIOSH) a plan for providing miners with the required periodic examinations and a roster specifying the name and current address of each miner covered by the plan. Proposed § 72.100(e) would require that each mine operator post on the mine bulletin board at all times the approved Periodic Examinations Plan.

#### Part 90 – Mandatory Health Standards for Coal Miners Who Have Evidence of the Development of Pneumoconiosis

Proposed §§ 90.201(f) and (i) would require mine operators to make and retain records of shift length and CPDM training for Part 90 miners. Proposed § 90.201(f) would require mine operators to make records showing the length of each shift for each Part 90 miner and keep them for at least six months. Proposed paragraph (i) would require that mine operators keep a record of Part 90 miners' CPDM training at the mine site for two years after they complete the training. Records under proposed paragraph (f) would be submitted to the District Manager when requested in writing.

Proposed § 90.206 would require that mine operators develop and implement a CPDM Performance Plan. Various provisions of this section contain recordkeeping requirements (§§ 90.206(a), (b), (d), and (e)). The proposed plan would not be implemented until approved by the District Manager. Proposed paragraph (a) would require the operator to develop and follow an approved CPDM Performance Plan to ensure that no Part 90 miner is exposed to respirable dust concentrations exceeding the applicable standard. Proposed paragraph (b) would require the mine operator to submit in writing to the District Manager a proposed CPDM Performance Plan and any proposed revision. Proposed paragraph (d) would require that each Part 90 miner receive a copy of the approved CPDM performance plan and any revisions pertaining to them. Proposed paragraph (e) would require operators to revise an approved CPDM performance plan if the District Manager determines that the plan is inadequate to protect Part 90 miners from exposure to concentrations of respirable dust in excess of the applicable standard.

Proposed § 90.208 specifies the procedures that mine operators would use in order to conduct compliance sampling with CMDPSUs. This proposed section contains several recordkeeping requirements (§§ 90.208, (e)(2), (f), (g)(3)). Proposed paragraph (e) (2) would require that the mine operator [during the time for abatement fixed in a citation for violation of the applicable standard] submit to the District Manager for approval the proposed corrective actions to lower the concentration of respirable dust to within the applicable standard. The operator would implement the proposed corrective actions following receipt of approval by the District Manager. Proposed paragraph (f) (which addresses the conditions that must be met for MSHA to terminate a citation) would require that when a citation is issued for a respirable dust violation for a Part 90 miner, the mine operator must submit to the District Manager for approval a proposed dust control plan for that Part 90 miner or proposed changes to the approved dust control plan as prescribed in § 90.300 within 15 calendar days after receiving sampling results from MSHA indicating the concentration complies with the applicable standard. The dust control plan would

reflect the control measures used to maintain the concentration at or below the applicable standard. Proposed paragraph (g) (3) would require that the mine operator record the corrective actions taken in the same manner as the records for hazardous conditions required by existing § 75.363 when results of samples collected by the operator indicate the concentration of one or more valid samples are above the applicable standard but below the applicable ECV.

Proposed § 90.209 contains paperwork requirements that mine operators would encounter when conducting compliance sampling with CPDMs (§§ 90.209(e)(3), (e)(4), (e)(5), (f)(3), and (f)(4)). Proposed paragraph (e) would require various actions by the mine operator before the affected Part 90 miner's next work shift when a valid end-of-shift equivalent concentration measurement meets or exceeds the applicable ECV, or a weekly accumulated exposure exceeds the weekly permissible accumulated exposure. Proposed paragraph (e)(3) would require that the mine operator submit to the District Manager for approval additional dust control measures that would be used to lower the concentration of respirable dust to within the applicable standard. These controls would be included in the proposed or approved dust control plan for the Part 90 miner as prescribed in proposed § 90.300. This submittal would be required within 3 days of sampling results that show the applicable standard was exceeded. Proposed paragraph (e)(4) would require that the mine operator submit to the District Manager for approval within 7 calendar days after the operator provides the end-of-shift equivalent concentration measurement or the weekly accumulated exposure to the affected Part 90 miner. Proposed paragraph (e)(5) would require that a record of the reported excessive dust condition be made as part of, and in the same manner as, the records for hazardous conditions required by existing § 75.363. Proposed paragraph (f) would require the mine operator to take various actions when any valid end-of-shift equivalent concentration measurement exceeds the applicable standard but is less than the applicable ECV. Proposed paragraph (f) (3), similar to paragraph (e)(5), would require that a record of the reported excessive dust condition be made as part of and in the same manner as the record for hazardous conditions required by existing § 75.363. Proposed paragraph (f)(4) would require that the operator submit to the District Manager for approval revisions to the approved CPDM Performance Plan within 7 calendar days after the operator provides the end-of-shift equivalent concentration measurement to the affected Part 90 miner.

Proposed §§ 90.210 (c) and (f) contain recordkeeping requirements for mine operators that address CMDPSU and CPDM sampling data. Proposed paragraph (c) would require that, if using a CMDPSU, a person certified in sampling complete the dust data card that is provided by the manufacturer for each filter cassette. It would also require the certified person who actually performed the required examinations during the sampling shift to sign the dust data card. Proposed § 90.210(f) would require the designated mine official validate, certify and transmit electronically to MSHA the CPDM data, within 12 hours after the end of the last sampling shift of the workweek, all daily sample and error data file information collected during the previous calendar week (Sunday through Saturday) and stored in the CPDM. All CPDM data files transmitted to MSHA would be maintained by the mine operator at least for 12 months.

Proposed §§ 90.211(b) and (c) contain recordkeeping requirements that address CMDPSU and CPDM data. Proposed paragraph (b) would require that upon receipt of the MSHA report of

CMDPSU data on the operator's respirable dust samples, the operator give a copy of the results to the Part 90 miner. Proposed paragraph (c) would require, if using a CPDM, that the designated mine official validate, certify, and provide to each Part 90 miner the miner's daily end-of-shift sampling results within the first hour of the miner's next work shift. The designated mine official would also provide within an hour after the start of the Part 90 miner's next work shift of a new workweek (Sunday through Saturday), the weekly accumulated exposure and the weekly permissible accumulated exposure to that Part 90 miner.

Proposed § 90.212(b) would require that status changes affecting the operational readiness of any CPDM be reported by the designated mine official to MSHA within 24 hours after the status change has occurred. Status changes could be reported in writing or electronically.

Proposed § 90.300(a) and § 90.301(d) contain paperwork requirements that mine operators develop written dust control plans for affected Part 90 miners, as required by proposed § 90.208(f) and proposed § 90.209(e)(3) (addressing citations for violations of applicable standards). Proposed § 90.300(a) would require that the mine operator submit to the District Manager for approval a written respirable dust control plan for the Part 90 miner in the position identified in the citation. The respirable dust control plan and revisions thereof would be suitable to the conditions and the mining system of the coal mine and be adequate to continuously maintain respirable dust within the applicable standard for that Part 90 miner. Proposed § 90.301(d) would require the mine operator to provide a copy of the current respirable dust control plan only to the Part 90 miner.

#### *IC 1219-0048 – Respirator Program Records*

Proposed § 72.700(c) would require that each mine operator keep a record of the training miners received on the care, fit, use and limitations of each type of respirator used at the mine. This training would be provided under proposed § 72.700(b). Records would be kept for two years after completion of the training. The mine operator may keep the record elsewhere if the record is immediately accessible from the mine site by electronic transmission.

#### *IC 1219-0088 – Ventilation Plans, Tests, and Examinations in Underground Coal Mines*

Proposed §§ 75.362(a)(2), (g)(2)(ii), and (g)(3) contain revised and new paperwork requirements that affect IC 1219-0088. Proposed § 75.362(a)(2) would require that a person designated by the mine operator conduct an examination and record the results and the corrective actions taken to ensure compliance with the respirable dust control parameters specified in the approved mine ventilation plan. Proposed paragraph (g)(2)(ii) would require that the certified person directing the on-shift examination to verify, by initials and date, the record of the results of the examination to assure compliance with the respirable dust control parameters specified in the mine ventilation plan. The verification would be made no later than the end of the shift for which the examination was made. Proposed paragraph (g)(3) would require that the mine foreman or equivalent mine official countersign each examination record required under proposed paragraph (a)(2) after they are verified by the certified person under proposed paragraph (g)(2)(ii) and no later than the end of the mine foreman's or equivalent mine official's

next regularly scheduled working shift. This record would be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

**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 respondents for the paperwork provisions of this proposed rule would be mine operators. These records would be used by coal mine operators, miners, and state and federal mine inspectors.

Records collected under IC 1219-0011 assist mine operators, miners, state and federal regulators to determine the adequacy of respirable dust control measures used to meet existing standards and protect miners from exposure to excessive levels of respirable coal mine dust. Under existing standards, information provided by operators concerning respirable dust sampling and related requirements is vital to the effective administration of mine operators' respirable dust control programs and allows operators and MSHA to assess their effectiveness. MSHA uses the information to determine which operators fully comply with required sampling requirements and exposure limits, and which operators fail to adequately comply to protect miners from excessive dust concentrations and thus need to take appropriate measures to lower miners' respirable dust exposure. Also, once MSHA processes dust samples submitted by operators, the Agency uses the collected information to report sample results to the appropriate mine operators as required by existing §§ 70.210(a), 71.210(a), and 90.210(a). Miners are provided notification of sampling results when operators post them on the mine bulletin board (existing §§ 70.210(b) and 71.210(b)), or when operators provide Part 90 miners with copies of the results (existing § 90.210(b)). These results enable the Agency to more effectively evaluate the adequacy of the operator's dust control measures, identify mine operators for targeted enforcement activities, and plan and undertake special health emphasis initiatives.

Operators of mines where samples exceed the applicable standard are either notified to submit additional samples (involving DA, DWP, or Part 90 miner entities only) or are cited for violating the applicable standard. 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 and meet the applicable standard.

Once a respirable dust control plan submitted in accordance with existing § 71.300 or § 90.300 is approved by MSHA, the mine operator must implement and comply with the plan provisions. Posting the plan under existing § 71.301(d) allows affected miners to acquaint themselves with the types and locations of dust control measures that are required to be used and maintained. If a plan applies to a Part 90 miner, existing § 90.301(d) requires the operator to provide a copy of the dust control plan directly to the affected Part 90 miner. MSHA inspectors use the plan to determine whether the mine operator is complying with its provisions and to assess the plan's continued effectiveness in maintaining compliance with the applicable standards.

Records collected under IC 1219-0048 ensure that the mine operator uses the information to properly train and issue respiratory protection to miners when feasible engineering and/or administrative controls do not reduce miners' exposures to applicable respirable dust standards. MSHA uses the information to determine compliance with the respiratory protection standard.

Records collected under IC 1219-0088 provide notice to mine management and miners on the oncoming shift of mine conditions, identify hazards on working sections during the previous shift, and verify that proper ventilation is being maintained under existing §§ 75.362 and 75.371. The information is available to all interested persons at the mine to assure them that the integrity of the ventilation system is being maintained. MSHA inspectors use the records to determine that required tests and examinations are made and that ventilation systems are maintained.

**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.**

The proposed rule would not specify how records be kept. They could be kept in the traditional manner or stored electronically, provided they are secure and not susceptible to loss or alteration. MSHA encourages mine operators who store records electronically to provide a mechanism to allow the continued storage and retrieval of records for a number of years.

The implementation of the CPDM will enhance the ability of mine operators to comply with the proposed dust control provisions because it will allow the sampling data to be downloaded to a PC, printed out for posting, and transmitted electronically to MSHA. This will result in a reduced burden to the mine operator. Electronic transmission of the CPDM data will reduce errors related to transcribing the data and ensure that the data have not been altered.

MSHA is currently working on the development of this system and will provide additional details regarding its functionality in both the preamble and the supporting statement for the final rule.

**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.**

MSHA knows of no other Federal or State reporting requirements that would duplicate the reporting requirements contained in this proposed rule. Current NIOSH rules require a plan for providing underground coal mine workers with chest x-rays. The proposed rule would add requirements for spirometry, symptom assessment, and occupational history for underground coal miners and expand coverage to surface coal miners. Where NIOSH and MSHA have overlapping standards, adherence to the NIOSH requirements will satisfy the MSHA requirements; consequently, while including the requirements in this NPRM eases understanding and compliance, it does not impose a duplicative burden. MSHA has only calculated burden for marginal burden increases imposed by this NPRM.

**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 Mine Act and MSHA regulations apply to all operations, both large and small, because accidents, injuries, and illnesses can occur at any mine regardless of size. Congress intended that the Secretary enforce the law at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. [See Rep. No. 181, 95th Cong., 1st Sess. 28 (1977)]. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Act. Accordingly, MSHA takes this into consideration when developing regulatory requirements. Different requirements for small and large mines exist when appropriate and consistent with ensuring the health and safety of miners. MSHA is phasing in the reduction in exposure limits under proposed §§ 70.100(a), 71.100(a), and 90.100(a). This will assist all operators of small coal mines by giving them more time to comply with the revised standards. In addition, under proposed § 70.208(h) underground coal mine operators are allowed to request from MSHA the temporary use of supplemental controls, including worker rotation, in conjunction with monitoring miners' exposures with CPDMs to reduce affected miners' dust exposure if they are unable to maintain compliance with the applicable standard for an MMU and have determined that all feasible engineering or environmental controls are being used. The additional time can be used by operators to develop and implement additional control strategies beyond those already in place at the mine to protect miners. MSHA will also make available on our web-site various sources of information, such as "Technical Assistance," and "Best Practices," to assist small mines with compliance.

**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 assure that it is free of excessive dust levels to prevent development of Black Lung disease. Therefore, the Mine Act and its implementing regulations require specific occupations, miners, and work locations be sampled by mine operators on a periodic basis. Current sampling, including sampling frequency and the number of miners and areas sampled, does not provide an accurate representation of respirable coal mine dust concentrations to which miners are exposed. Collecting fewer respirable dust samples and monitoring fewer miners would increase the likelihood for excessive dust conditions to go undetected. Consequently, the health of miners would be adversely impacted if the sampling information was not collected and corrective action was not taken to lower their respirable dust exposure. Failing to collect information to identify where, when, by whom, and under what conditions specific respirable dust samples were collected would render the sampling results meaningless and of no practical value.

When required to make respirators available, operators would be required to train miners on the care, fit, use, and limitations of each type of respirator made available. To ensure that affected miners are trained, the operator would be required to keep a record of the training for two years. The health of miners who are required to use such respirators could be jeopardized without the collection of this information.

MSHA believes that the recordkeeping requirements for ventilation tests and examinations are the minimum necessary to assure that mines are safe and adequately ventilated. Reduction in these requirements may result in unsafe conditions, thus jeopardizing miners' health. Section 101(a)(9) of the Mine Act prohibits the Agency from reducing the protection given miners by any existing standard. The Agency has clarified that once a ventilation plan is approved, the mine operator need only submit the revised pages or sketches of the plan when proposing revisions unless the District Manager has requested, in writing, that a fully revised plan be submitted.

If this proposed rule is not implemented, the health status of coal miners in the U.S. is likely to continue to worsen; as described in the Health Effects section of the preamble of the proposed rule. This proposed rule would increase the protections afforded to miners under existing standards by requiring the implementation of new technology (CPDM), lowering exposure to respirable coal mine coal dust, increasing medical surveillance and extending medical surveillance to surface coal mine operations.

**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.**

This collection of information is consistent with the guidelines in 5 CFR 1320.5. With the exception of the monitoring data from the continuous personal dust monitors (CPDMs), the information is collected on a quarterly basis or less frequently. The CPDM is new technology that provides a direct measurement of respirable dust in the miner's work atmosphere on a real-time basis as compared to the existing sampler which requires laboratory analysis the results of which are often not available for weeks. The proposed rule requires the daily use of the CPDM to protect miners from the health risks associated with exposures above the proposed limit. In order to minimize the burden on mine operators, the CPDM is only required for designated occupations in underground mines and mine operators are only required to report the sampling results weekly rather than at the end of each shift.

**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.**

The NPRM preamble solicited comments on the information collection requirements in the proposed rule and provided an opportunity for comments to be sent directly to OMB, albeit under the standard existing OMB Control Numbers. (75 FR 66412, October 19, 2010.) The initial comment period was scheduled to end on February 28, 2011; however, MSHA has twice extended the comment period, now set to last until May 2, 2011. (76 FR 2617, January 14, 2011; 76 FR 12658, March 8, 2011.) In addition, MSHA has conducted seven public hearings on the NPRM. Timely comments received in response to the NPRM will receive consideration at the Final Rule stage.

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

MSHA will provide no payments or gifts to the respondents identified in this collection.

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

There is no assurance of confidentiality provided to respondents beyond that required by the Freedom of Information Act (5 U.S.C. 522).

**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 14.**

**A. Proposed §§ 70.201(k) and 90.201(k) -Training for Miners Using CPDM**

Burden to Make Records for CPDM Training

Proposed §§ 70.201(k) and 90.201(k) would require that operators keep a record of the CPDM training. MSHA estimates that 7,813 miners would receive CPDM training each year. MSHA estimates that it takes a clerical employee earning \$26.00 an hour 0.00833 hours (30 seconds) to make a record of each miner that received CPDM training. MSHA estimates that the annual burden hours and costs to make records for miners receiving CPDM training are approximately 65 hours (7,813 x 0.00833) and \$1,690 (65 hours x \$26.00 per hour).

## **B. Proposed §§ 70.201(g) and 90.201(f) Record of Shift Length**

### Burden to Make a Record of Shift Length for Underground Mines

Proposed §§ 70.201(g) and 90.201(f) would require the operator to record the actual length of each production shift for each MMU. MSHA estimates that a supervisor, earning \$84.70 an hour, would take 1 minute (0.0167 hours) to record the length of each production shift.

MSHA estimates that there are 93 shifts per day in mines with 1-19 employees (69 MMUs with 1 shift per day + 12 MMUs with 2 shifts per day); 1,445 shifts per day in mines with 20-500 employees (45 MMUs with 1 shift per day + 589 MMUs with 2 shifts per day + 74 MMUs with 3 shifts per day); and 273 shifts per day in mines with 501+ employees (3 MMUs with 2 shifts per day + 89 MMUs with 3 shifts per day). Records would need to be made of the length of these shifts each working day. MSHA estimates that, on average, the number of workdays per year is: 200 days for mines with 1-19 employees (4 days per week x 50 weeks); 300 days for mines with 20 or more employees (6 days per week x 50 weeks); and 350 days for mines with 501+ employees (7 days per week x 50 weeks). MSHA's estimates of underground coal operators' annual burden hours and related costs are presented below (these estimates do not include the hours and costs for records of shift length at surface areas of underground mines; these are presented below).

#### Burden Hours

- 93 shifts per day x 200 days x 0.0167 hrs. = 311 hrs.
- 1,445 shifts per day x 300 days x 0.0167 hrs. = 7,239 hrs.
- 273 shifts per day x 350 days x 0.0167 hrs. = 1,596 hrs.

#### Burden Costs

- 9,146 hrs. x \$84.70 wage rate = \$774,666

## **C. Proposed § 71.201(d) Record of Shift Length**

### Burden to Make a Record of Shift Length for Surface Mines

Proposed § 71.201(d) would require the operator to record the actual length of each normal work shift for each DWP working at surface mines. MSHA estimates that a miner, earning \$31.84 an hour, would take 1 minute (0.0167 hours) to record the length of each normal work shift.

MSHA estimates that the average number of shifts per day is: 1 shift per day in mines with 1-19 employees; 2 shifts per day in mines with 20-500 employees; and 2 shifts per day in mines with 501+ employees. Records would need to be made of the length of these shifts each working day. MSHA estimates that, on average, the number of workdays per year is: 250 days for mines with 1-19 employees (5 days per week x 50 weeks); 300 days for mines with 20 or more employees (6 days per week x 50 weeks); and 350 days for mines with 501+ employees (7 days per week x 50 weeks). There are 2,930 DWPs at surface mines and facilities, 1,107 DWPs at mines with 1-19 employees; 1,759 DWPs at mines with 20-500 employees; and 64 DWPs at mines with 501+ employees. MSHA's estimates of surface coal operators' annual burden hours and related costs are presented below.

#### Burden Hours

- 1,107 DWPs x 1 shift per day x 250 days x 0.0167 hrs. = 4,622 hrs.
- 1,759 DWPs x 2 shifts per day x 300 days x 0.0167 hrs. = 17,625 hrs.
- 64 DWPs x 2 shifts per day x 350 days x 0.0167 hrs. = 748 hrs.

#### Burden Costs

- 22,995 hrs. x \$31.84 wage rate = \$732,160

#### Burden to Make a Record of Shift Length for Surface Areas at Underground Mines

Proposed § 71.201(d) would require the operator to record the actual length of each normal work shift for each DWP working at surface areas of underground mines. MSHA estimates that a miner, earning \$35.30 an hour, would take 1 minute (0.0167 hours) to record the length of each normal work shift.

MSHA estimates that the average number of shifts per day is: 1 shift per day in mines with 1-19 employees, 2 shifts per day in mines with 20-500 employees, and 3 shifts per day in mines with 501+ employees. Records would need to be made of the length of these shifts each working day. The number of workdays is the same as estimated above for underground mines: 200 days for mines with 1-19 employees, 300 days for mines with 20-500 employees and 350 days for mines with 501+ employees. There are 89 DWPs at surface areas of underground mines, which consist of: 13 DWPs at mines with 1-19 employees, 47 DWPs at mines with 20-500 employees and 29 DWPs at mines with 501+ employees. MSHA's estimates of underground coal operators' annual burden hours and related costs are presented below.

#### Burden Hours

- 13 DWPs x 1 shift per day x 200 days x 0.0167 hrs. = 43 hrs.
- 47 DWPs x 2 shifts per day x 300 days x 0.0167 hrs. = 471 hrs.
- 29 DWPs x 3 shifts per day x 350 days x 0.0167 hrs. = 509 hrs.

#### Burden Costs

- 1,023 hrs. x \$35.30 wage rate = \$36,112

### **D. Proposed § 70.201(i) Record of Material Produced**

#### Burden to Make a Record of Material Mined

Proposed § 70.201(i) would require the operator to record the amount of run-of-mine material produced by each MMU during each shift. Some mines already record the material produced per shift, however, most do not. MSHA estimates that a supervisor, earning \$84.70 an hour, would take 5 minutes (0.0833 hours) to record the material produced on each shift.

MSHA estimates that material produced is not recorded for 90% of shifts in mines with 1-19 employees and 75% of shifts in mines with 20-500 employees. All mines with 501+ employees currently record the material produced on each shift. MSHA estimates that material produced is not recorded for 84 shifts per day in mines with 1-19 employees (93 shifts x 0.90) and 1,084 shifts per day in mines with 20-500 employees (1,445 shifts x 0.75). MSHA's estimates of underground coal operators' annual burden hours and related costs are presented below.

#### Burden Hours

- 84 shifts per day x 200 days x 0.0833 hrs. = 1,399 hrs.
- 1,084 shifts per day x 300 days x 0.0833 hrs. = 27,089 hrs.

#### Burden Costs

- 28,488 hrs. x \$84.70 wage rate = \$2,412,933

### **E. Proposed §§ 70.206 and 90.206 Burden to Write, Submit, and Revise CPDM Plans to MSHA for Approval and Related Provisions**

#### Burden to Write and Submit CPDM Plans to MSHA for Approval

Proposed § 70.206(a) and §§ 90.206(a) and (b) for underground coal mines would require that operators using a CPDM must have an approved CPDM Performance Plan to ensure that no miner working on an MMU shall be exposed to concentrations of respirable coal mine dust in excess of the applicable standard. MSHA assumes that underground operators would develop one CPDM plan that covers all miners working at underground mines including Part 90 miners. So each underground coal operator would need a plan and the number of plans would be equal to the number of mines, i.e., 424. On average, MSHA estimates that a supervisor will take 4 hours to write a proposed CPDM plan and a clerical employee will take 15 minutes (0.25 hours) to copy and submit it. MSHA's estimates of underground coal operators first year burden hours and related costs are presented below.

#### Burden Hours

- 424 plans x 4 hrs. = 1,696 hrs.
- 424 plans x 0.25 hrs. = 106 hrs.

Total burden hours = 1,802 hrs.

#### Burden Costs

- 1,696 hrs. x \$84.70 wage rate = \$143,651
- 106 hrs. x \$26.00 wage rate = \$2,756

Total burden cost = \$146,407

#### Burden to Revise CPDM Plans Submitted to MSHA for Approval

MSHA estimates that 35 percent of mine operators that submit CPDM plans to the Agency for approval would need to revise the plans before MSHA approval could be obtained. Thus, MSHA estimates that 148 plans would be revised (424 x 0.35). On average, MSHA estimates that it would take a supervisor 0.5 hours (30 minutes) to write revisions to a proposed plan and a clerical employee 15 minutes (0.25 hours) to copy and submit the plan. MSHA's estimates of underground coal operators first year burden hours and related costs are presented below.

#### Burden Hours

- 148 revised plans x 0.5 hrs. = 74 hrs.
- 148 revised plans x 0.25 hrs. = 37 hrs.

Total burden hours = 111 hrs.

#### Burden Costs

- 74 hrs. x \$84.70 wage rate = \$6,268
- 37 hrs. x \$26.00 wage rate = \$962

Total burden cost = \$7,230

#### Cost to Notify and Provide to the Representative of Miners CPDM Plans Submitted to MSHA for Approval

Proposed § 70.206(a)(1) would require that operators notify the representative of miners at least 5 days prior to submission of a CPDM Performance Plan and any revisions. If requested, the operator shall provide a copy to the representative of the miners. MSHA assumes that 100 percent of the time the representative of the miners would request to be provided with the plan. MSHA estimates that 572 plans (424 proposed plans + 148 revised plans) would be provided to the miners' representative. MSHA estimates that a clerical employee would take 15 minutes (0.25 hours) to notify and provide a copy of the CPDM plan. MSHA estimates that first year burden hours and related costs to underground coal operators to notify and provide to the miners representative proposed and revised CPDM plans submitted to MSHA for approval are 143 hours ( 572 plans x 0.25) and \$3,718 (143 hrs. x \$26.00).

#### Burden to Post CPDM Plans Submitted to MSHA for Approval

Proposed § 70.206(a)(3) would require that a copy of proposed CPDM Performance Plans and any revisions submitted for approval be posted on the mine bulletin board. Proposed § 90.206(d) would require that if a mine has Part 90 miners, then they need to be given a copy of the plan. The number of proposed and revised CPDM plans submitted for approval determined above would be posted or provided to a Part 90 miner. MSHA estimates that a clerical employee would take 0.25 hours (15 minutes) to copy and post or copy and provide the plan to a Part 90 miner. MSHA estimates that first year burden hours and related costs to underground coal operators to copy and post proposed and revised CPDM plans submitted to MSHA for approval are 143 hours ( 572 plans x 0.25) and \$3,718 (143 hrs. x \$26.00).

#### Posting and Providing Approved Plans

Proposed § 70.206(c) would require a copy of the approved plan to be posted and to be provided to the miners' representative upon request. MSHA has not assessed any additional burden or costs for this proposed requirement because the burden and costs of posting and providing copies

to the miners' representatives of all of the proposed plans and revisions were included in the previous estimates. Once the plans are approved the miners' representative would already have the copy and would just have to be notified. If the plans are not approved the cost for the revisions (including the posting and providing copies to the mines' representative) was also included in the estimates presented above.

Proposed § 90.206(d) would require that Part 90 miners be given a copy of the plan. The number of Part 90 miners as of January 2010 is: no Part 90 miners in mines with 1-19 employees, 47 Part 90 miners in mines with 20-500 employees, and 19 Part 90 miners in mines with 501+ employees.

MSHA estimates that a clerical employee would take 15 minutes (0.25 hours) to provide a copy of the plan to a Part 90 miner. MSHA estimates that first year burden hours and cost would be approximately 17 hours (66 plans x 0.25 hours) and \$429 (17 hours x \$26.00).

#### **F. Proposed §§ 70.206, 70.208, 70.209, 90.206, and 90.209 Burden of Revisions to MSHA Approved CPDM Performance Plans**

##### Burden to Revise and Submit Revisions to Approved CPDM Plans

MSHA anticipates that revisions to approved CPDM plans by underground coal operators would occur under proposed §§ 70.206(d), 70.208(f)(4), 70.208(g)(4), 70.209(g)(4), 90.206(b), 90.206(e), 90.209(e)(4) and 90.209(f)(4). MSHA estimates that 25 percent of mine operators would make revisions to approved CPDM plans each year. This estimate includes the small number of plans being submitted by "new" mines where the operator revises a "model" plan supplied by MSHA or a plan previously used at another location. Thus, 106 underground coal operators would make revisions to an approved CPDM plan each year (424 x 0.25). MSHA estimates that there would be 390 revisions each year: 40 revisions for mines with 1-19 employees (20 mines x 2 revisions), 332 revisions in mines with 20-500 employees (83 mines x 4 revisions), and 18 revisions with 501+ employees (3 mines x 6 revisions). On average, MSHA estimates that a supervisor takes 0.25 hours (15 minutes) to revise an approved plan, and a clerical employee takes 0.25 hours (15 minutes) to copy and submit the revision. Since CPDMs are not required to be used until 12 months after the final rule becomes effective, revisions to approved plans are not assumed to occur until after that time. MSHA's estimates of the annual burden hours and related costs to underground coal operators beginning in the second year are presented below.

##### Burden Hours

- 390 revisions x 0.25 hrs = 98 hrs.
- 390 revisions x 0.25 hrs = 98 hrs.

Total burden hours = 196 hrs.

#### Burden Costs

- 98 hrs. x \$84.70 wage rate = \$8,301
- 98 hrs. x \$26.00 wage rate = \$2,548

Total burden cost = \$10,849

#### Burden to Notify and Provide to the Representative of the Miners Revisions to Approved CPDM Plans

Under proposed § 70.206(c)(3) revisions to approved CPDM plans must be provided to the miners representative, if requested. MSHA assumes that a 100% of the time the miners' representative would request the revisions to an approved CPDM plan. On average, MSHA estimates that a clerical employee takes 0.25 hrs. (15 minutes) to copy and provide the revisions to the approved CPDM plan. MSHA estimates that the annual burden hours and related costs to underground coal operators to provide approved CPDM plan revisions to the representative of the miners are approximately 98 hours (390 revisions x 0.25) and \$2,548 (98 hours x \$26.00).

#### Burden to Post Approved CPDM Plans and Revisions

Proposed § 70.206(c)(3) would require that revisions of approved CPDM plans be posted on the mine bulletin board. Proposed § 90.206(d) would require Part 90 miners to be given a copy of the plan. Out of the number of approved CPDM plan revisions determined above, there would be 66 posted or provided to the Part 90 miners. MSHA estimates that a clerical employee takes 0.25 hours (15 minutes) to copy and post or copy and provide revisions to a Part 90 miner. MSHA estimates that annual burden hours and related costs to underground coal operators to copy and post approved CPDM plan revisions are approximately 17 hours (66 revisions x 0.25) and \$442 (17 hours x \$26.00).

#### **G. Proposed § 70.208(h) Use of Supplementary Controls**

Proposed § 70.208(h) would require that during the period specified, if an operator is unable to maintain compliance with the applicable standard for an MMU and has determined that all feasible engineering or environmental controls are being used on the MMU, the operator may request through the District Manager that the Administrator for Coal Mine Safety and Health approve the use of supplementary controls for a period not to exceed 6 months.

MSHA estimates that a supervisor takes 8 hours to write an initial request to use supplementary controls for each MMU and a clerical employee 15 minutes (0.25 hrs.) to copy and submit the request. MSHA estimates that a total of 29 MMUs would need to request the use of supplementary controls. MSHA estimates the operators would make an average of 2 requests per MMU during the year, since approvals for such requests are only good for 6 months.

MSHA's estimates of the first year burden hours and costs to underground coal operators are presented below.

#### Burden Hours

- 29 MMUs x 2 requests x 8 Hrs to write request = 464 hrs.
- 29 MMUs x 2 requests x 0.25 hrs to copy and submit = 15 hrs.

Total burden hours = 479 hrs.

#### Burden Costs

- 464 hrs. x \$84.70 wage rate = \$39,301
- 15 hrs. x \$26.00 wage rate = \$390

Total burden cost = \$39,691

### **H. Proposed §§ 70.210 and 90.210 Respirable Dust Samples; Transmission by Operator**

#### Cost to Validate, Certify, and Transmit CPDM Data Electronically to MSHA

Proposed §§ 70.210(f) and 90.210(f) require underground coal operators to have a designated mine official validate, certify, and transmit electronically to MSHA within 12 hours after the end of the last sampling shift of the work week all daily samples and error data file information collected during the previous week. MSHA estimates that validating, certifying, and uploading the data from a CPDM to a computer and then transmitting the data electronically to MSHA would take a designated mine official earning a supervisor's wage, 6 minutes (0.1 hours). MSHA estimates that each CPDM would be used for 50 working weeks per year.

#### Year 1

MSHA assumes that CPDMs associated with the use of supplementary controls would typically only be used in the first year (i.e., supplementary controls would not be permitted after the second year and CPDM use for DOs, Part 90 miners and ODOs would not be required until the second year). MSHA estimates that first year burden hours and cost to underground coal operators to validate, certify, and transmit electronically CPDM data from supplementary controls to MSHA would be approximately 870 hours (174 CPDMs x 50 weeks x 0.1 hrs) and \$73,689 (870 hours x \$84.70).

#### Year 2

In the second year the use of CPDMs associated with supplementary controls would be phased out. Sampling of the DOs and Part 90 miners would begin at the start of the second year and sampling of the ODOs would begin after 6 months. Annual burden hours and costs beginning

the second year would be 8,570 hours (1,714 CPDMs x 50 weeks x 0.1 hrs.) and \$725,880 (8,570 hrs. x \$84.70) for DOs and Part 90 miners. For ODOs the burden hours and costs would be 1,918 hours (767 CPDMs x 25 weeks x 0.1 hrs.) and \$162,455 (1,918 hrs. x \$84.70).

### Year 3

In the third year the CPDM would be used to sample DOs and Part 90 miners as well as ODOs. Annual burden hours and costs in the third year would be 12,405 hours (2,481 CPDMs x 50 weeks x 0.1 hrs.) and \$1,050,705 (12,405 hrs. x \$84.70).

## **I. Proposed §§ 70.211(c) and 90.211(c) CPDM Sampling Information**

### Burden to Validate, Certify and Post Sampling Information

Proposed §§ 70.211(c) and 90.211(c) would require the operator to validate, certify and post CPDM sampling information after each shift. The sampling information for underground miners must be posted and the sampling information for each Part 90 miner must be provided to the miner. Proposed § 70.201(g) and § 90.201(f) require a record to be made of the length of each shift for each MMU. MSHA assumes that this would be done at the same time as the posting of sample information, which also would require a record of the shift length. The paperwork burden hours and costs for proposed § 70.211(c) that were developed below include the hours and cost of both proposed § 70.201(g) and § 90.201(f). MSHA estimates that a supervisor, earning \$84.70 an hour, would take 3 minutes (0.05 hours) to validate, certify and post each set of sampling information.

### Year 1

Mines that request and use supplementary controls would be required to sample using a CPDM. Every time a CPDM is used to sample, a new CPDM filter is used and sampling information is generated after the sample is taken. Therefore, the number of sets of sampling information needed to validate, certify and post, or provide to the Part 90 miner, equals the number of CPDM filters used. MSHA estimates that 49,800 filters would be used to monitor workers using CPDMs associated with supplementary controls during the first year. MSHA estimates that the first year burden hours would be 2,490 (49,800 sample information x 0.05 hours) and the cost would be \$210,903 (2,490 hours x \$84.70).

### Year 2

Based upon the estimated shifts worked at each mine size and the estimated days of production each year MSHA estimates that underground mine operators would take 568,400 samples with

the CPDM each year for DO and Part 90 miners and have to fill out 568,400 sets of sampling information. The annual burden hours for underground DO and Part 90 samples is 28,420 (568,400 sample information x 0.05 hours) and the cost is \$2,407,174 (28,420 hours x \$84.70 per hour).

Based upon the estimated shifts worked at each mine size, MSHA estimates that 3,847 ODO samples would be taken during each day of sampling. The proposed rule would require each ODO to be sampled for 14 days each quarter; therefore, MSHA estimates that 53,858 ODO samples would be taken each quarter. ODO sampling begins after 18 months; therefore there would be 2 quarters of ODO sampling in the second year. MSHA estimates that the second year burden and cost to validate, certify and post sampling information for each CPDM after each shift of ODO sampling is approximately 5,386 hours (53,858 samples per quarter x 2 quarters x 0.05 hours) and a cost of \$456,194 (5,386 hours x \$84.70).

### Year 3

The annual burden hours and cost for underground DO and Part 90 samples are the same as the second year, 28,420 hours and \$2,407,174. The annual burden hours and cost for ODO sampling would be twice as high as in the second year because 4 quarters of sampling will occur rather than 2 - 10,772 hours and \$912,388.

### **J. Proposed §§ 70.210(c), 70.211(b), 71.208(c), 71.209(b), 90.210(c) and 90.211(b) Gravimetric Sampling**

#### Burden of Transmitting the Samples

Proposed §§ 70.210(c), 71.208(c) and 90.210(c) would require each sample to be transmitted to MSHA along with a completed dust data card. MSHA estimates that a certified dust technician with an estimated hourly wage of \$31.77 in an underground coal mine and \$28.66 in a surface coal mine would take 6 minutes (0.1 hours) to prepare and send one sample, along with the dust data card, to MSHA. After filling out the dust data card, a certified person signs the card and writes the certification number on it. On average, MSHA estimates that a certified person (normally the mine safety inspector or an equivalent person) with an estimated hourly wage of \$84.70 in an underground mine and \$69.98 in a surface mine takes 1.5 minutes (0.025 hours) to complete and sign the dust data card. MSHA's estimates of the burden hours and costs are presented below.

#### *Estimate for Underground Mines:*

Due to phasing out of the gravimetric sampler for the monitoring of DOs and Part 90 miners (in

12 months) and ODOs (in 18 months), the estimates for underground coal operators vary by year.

### Year 1

Due to the increased sampling required under the proposed provisions, in year 1, there would be an increase of 15,298 samples for underground mines.

#### Burden Hours

- 15,298 samples x 0.1 hrs. = 1,530 hrs.
- 15,298 samples x 0.025 hrs. = 382 hrs.

Total burden hours = 1,912

#### Burden Costs

- 1,530 hrs. x \$31.77 wage rate = \$48,608
- 382 hrs. x \$84.70 wage rate = \$32,355

Total burden cost = \$80,964

### Year 2

Due to the shift from the gravimetric sampler to the CPDM for DOs and Part 90 miners at the beginning of the second year, and for ODOs after 18 months, MSHA estimates that there would be an overall decrease of 16,972 samples for underground mines.

#### Burden Hour Savings

- 16,972 samples x 0.1 hrs. = 1,697 hrs. saved
- 16,972 samples x 0.025 hrs. = 424 hrs. saved

Total burden hours = 2,121 hrs. saved

#### Burden Cost Savings

- 1,697 hrs. x \$31.77 wage rate = \$53,914
- 424 hrs. x \$84.70 wage rate = \$35,913

Total burden cost savings= \$89,826

### Year 3

Due to the shift from the gravimetric sampler to the CPDM (for DOs, Part 90 miners and ODOs) during the second year, MSHA estimates that there would be an overall decrease of 21,492 samples for underground mines.

#### Burden Hour Savings

- 21,492 samples x 0.1 hrs. = 2,149 hrs. saved
- 21,492 samples x 0.025 hrs. = 537 hrs. saved

Total burden hours = 2,722 hrs. saved

#### Burden Cost Savings

- 2,149 hrs. x \$31.77 wage rate = \$68,274
- 537 hrs. x \$84.70 wage rate = \$45,484

Total burden cost savings = \$113,758

#### *Surface Mines (Annual Estimate):*

Due to the increased sampling required under the proposed provisions; there would be an annual increase of 9,878 samples for surface mines.

#### Burden Hours

- 9,878 samples x 0.1 hrs. = 988 hrs.
- 9,878 samples x 0.025 hrs. = 247 hrs.

Total burden hours = 1,235 hrs.

#### Burden Costs

- 988 hrs. x \$28.66 wage rate = \$28,316
- 247 hrs. x \$69.98 wage rate = \$17,285

Total burden cost = \$45,601

#### Cost of Posting the Sample Results

Proposed §§ 70.211(b) and 71.209(b) would require mine operators to post sample results on the mine bulletin board. Proposed § 90.211(b) would require mine operators to provide Part 90 miners with a copy of the sample results. For purposes of this burden analysis, MSHA assumes that it takes the same amount of time to provide a copy of the sample results to the Part 90 miner as it does to post the sample results on the mine bulletin board.

On average, MSHA estimates that it takes a clerical employee, making \$26.00 an hour in underground mines and \$25.45 an hour at surface mines, 0.1 hours (6 minutes) to copy and post the summary of the sample results. MSHA's estimates of the burden hours and costs are presented below.

#### *Underground Mines:*

Due to the phasing out of the gravimetric sampler for the monitoring of DOs and Part 90 miners (in 12 months) and ODOs (in 18 months), the estimates for underground coal operators vary by year.

#### Year 1

In the first year, there would be no change to the number of times the DO results would have to be posted. The posting of the DA results and providing the Part 90 miner results would decrease by 2 occasions due to the decrease in the sampling frequency from bimonthly to quarterly. Therefore MSHA estimates a decrease of 1,810 postings in underground mines in the first year. MSHA estimates that the burden hour and cost savings to underground coal mines in the first year are approximately 181 saved hours (1,810 postings x 0.1 hours) and \$4,706 (181 hours x \$26.00) in saved costs.

#### Year 2

Due to the shift from the gravimetric sampler to the CPDM for DOs and Part 90 miners at the beginning of the second year and for the ODOs after 18 months, MSHA estimates that there would be an overall decrease of 7,464 postings for underground mines. MSHA estimates that the burden hour and cost savings to underground coal mines in the second year are approximately 746 saved hours (7,464 postings x 0.1 hours) and \$19,396 (746 hours x \$26.00) in saved costs.

#### Year 3

Due to the shift from the gravimetric sampler to the CPDM (for DOs, Part 90 miners and ODOs) during the second year, MSHA estimates that there would be an overall decrease of 7,464 postings for underground mines in the third year. MSHA estimates that the burden hour and cost savings to underground coal mines in the third year are approximately 746 saved hours (7,464 postings x 0.1 hours) and \$19,396 (746 hours x \$26.00) in saved costs.

#### *Surface Mines:*

The posting of the DWP results would increase by twice the number of additional DWPs; therefore MSHA estimates an annual increase in samples for surface mines of 9,878. MSHA estimates that the annual burden hours and costs to surface mines are approximately 988 hours (9,878 samples x 0.1 hours) and \$25,145 (988 hours x \$25.45).

#### **K. Estimated Burden and Cost for Abatement Resulting from Proposed Rule**

Burden to Submit Corrective Actions - Proposed §§ 70.207(g)(2), 70.208(f)(3), 70.209(e)(2), 71.207(k)(2), 90.208(e)(2), 90.209(e)(3) and Revising Mine Ventilation or Dust Control Plan – Proposed §§ 70.207(h), 70.209(f), 71.207(l), 71.300(a), 90.208(f) and 90.300(a)

Underground coal operators (under proposed §§ 70.207(g)(2), 70.209(e)(2), and 90.208(e)(2)) and surface coal operators (under proposed § 71.207(k)(2)) would be required, during the abatement time fixed in a citation for violation of the applicable standard to submit corrective actions for MSHA approval. Underground coal operators under proposed §§ 70.208(f)(3) and 90.209(e)(3) would be required to submit corrective actions for MSHA approval when a valid end-of-shift equivalent concentration measurement meets or exceeds the applicable ECV, or exceeds a weekly permissible accumulated exposure.

For underground coal operators (under proposed §§ 70.207(h), 70.209(f), 90.208(f) and 90.300(a)) and surface coal operators (under proposed §§ 71.207(l), 71.300(a), 90.208(f) and 90.300(a)), one of the conditions for terminating a citation for violation of the applicable standard is that the underground operator submits revised dust control parameters as part of the mine ventilation plan, or a dust control plan or revisions, and the surface operator submits a new or revised dust control plan applicable to the DWP or Part 90 miner identified in the citation. Further, underground coal operators under proposed § 90.300(a) and surface coal operators under proposed § 71.300(a) would need to submit a dust control plan or revision to a dust control plan identified in a citation.

MSHA estimates that a supervisor (earning \$84.70 per hour in an underground coal mine and \$69.98 per hour in a surface coal mine) would take 15 minutes (0.25 hours) to write up the corrective actions for submission; and a clerical employee (earning \$26 per hour in an underground coal mine and \$25.45 in a surface coal mine) would take 6 minutes (0.1 hours) to submit the corrective actions. MSHA's estimates for burden hours and costs are presented below.

##### Year 1

MSHA estimates the number of corrective action submissions in the first year would be 504 for underground and 76 for surface mines.

##### *Underground Mines:*

### Burden Hours

- 504 submissions x 0.25 hrs. = 126 hrs.
- 504 submissions x 0.1 hrs. = 50 hrs.

Total burden hours = 176 hrs.

### Burden Costs

- 126 hrs. x \$84.70 wage rate = \$10,672
- 50 hrs. x \$26.00 wage rate = \$1,300

Total burden cost = \$11,972

### *Surface Mines:*

#### Burden Hours

- 76 submissions x 0.25 hrs. = 19 hrs.
- 76 submissions x 0.1 hrs. = 8 hrs.

Total burden hours = 27 hrs.

#### Burden Costs

- 19 hrs. x \$69.98 wage rate = \$1,330
- 8 hrs. x \$25.45 wage rate = \$204

Total burden cost = \$1,534

### Year 2

MSHA estimates the number of corrective action submissions in the second year would be 666 for underground coal operators and 59 for surface mines.

### *Underground Mines:*

### Burden Hours

- 666 submissions x 0.25 hrs. = 167 hrs.
- 666 submissions x 0.1 hrs. = 66 hrs.

Total burden hours = 233 hrs.

### Burden Costs

- 167 hrs. x \$84.70 wage rate = \$14,145
- 66 hrs. x \$26.00 wage rate = \$1,716

Total burden cost = \$15,861

### *Surface Mines:*

#### Burden Hours

- 59 submissions x 0.25 hrs. = 15 hrs.
- 59 submissions x 0.1 hrs. = 6 hrs.

Total burden hours = 21 hrs.

#### Burden Costs

- 15 hrs. x \$69.98 wage rate = \$1,050
- 6 hrs. x \$25.45 wage rate = \$153

Total burden cost = \$1,203

### Year 3

MSHA estimates the number of corrective action submissions in the third year would be 269 for underground mines and 36 for surface mines.

### *Underground Mines:*

### Burden Hours

- 269 submissions x 0.25 hrs. = 68 hrs.
- 269 submissions x 0.1 hrs. = 28 hrs.

Total burden hours = 96 hrs.

### Burden Costs

- 68 hrs. x \$84.70 wage rate = \$5,760
- 28 hrs. x \$26.00 wage rate = \$728

Total burden cost = \$6,488

### *Surface Mines:*

#### Burden Hours

- 36 submissions x 0.25 hrs. = 10 hrs.
- 36 submissions x 0.1 hrs. = 4 hrs.

Total burden hours = 14 hrs.

#### Burden Costs

- 10 hrs. x \$69.98 wage rate = \$700
- 4 hrs. x \$25.45 wage rate = \$102

Total burden cost = \$802

### Burden of Completing Dust Data Card and Sending the Gravimetric Sample and Card to MSHA

Underground coal operators (under proposed §§ 70.210(c) and 90.210(c)) and surface coal operators (under proposed § 71.208(c)) must complete the dust data card and submit the card to MSHA along with the sample.

On each dust data card, the person completing the dust data card is a certified dust technician with an estimated hourly wage of \$31.77 in an underground coal mine and \$28.66 in surface mines. On average, MSHA estimates that a certified dust technician takes 6 minutes (0.1 hours) to complete the dust data card, sign it and send it along with the sample to MSHA. After filling out the dust data card, a certified person signs the card and writes the certification number on it. On average, MSHA estimates that a certified person (normally the mine safety inspector or an equivalent person) takes 1.5 minutes (0.025 hours) to review and sign the dust data card. A supervisor's hourly wage is estimated to be \$84.70 in an underground mine and \$69.98 in a

surface mine.

## Year 1

### *Underground Mines:*

In year 1 underground mines would be using the gravimetric sampler, thus the number of dust data cards equates to the number of abatement samples taken. Five abatement samples must be taken each time an operator is cited for a violation of the applicable dust standard or the sample exceeds the applicable standard but is below the ECV. Therefore, for underground coal mines, MSHA estimates that the number of dust data cards to complete, sign, and send would be 2,645 (529 times standard was exceeded x 5 samples). MSHA's estimates of the burden hours and costs are presented below.

#### Burden Hours

- 2,645 submissions x 0.025 hrs. = 66 hrs.
- 2,645 submissions x 0.1 hrs. = 265 hrs.

Total burden hours = 331 hrs.

#### Burden Costs

- 66 hrs. x \$84.70 wage rate = \$5,590
- 265 hrs. x \$31.77 wage rate = \$8,419

Total burden cost = \$14,009

### *Surface Mines:*

MSHA has not projected any additional costs for surface coal mines completing dust data cards and sending them along with the samples to MSHA in the first year because the existing standards currently require surface mine operators to take 5 additional samples, complete the data cards and send the results to MSHA whenever a sample result exceeds the applicable standard.

## Year 2

*Underground Mines:*

MSHA has not projected any additional costs for underground coal mines completing dust data cards and sending them along with the samples to MSHA in the second year because these mines would be using the CPDM to sample every day.

*Surface Mines:*

The number of dust data cards equates to the number of samples taken. Therefore, for surface coal mines, MSHA estimates that the number of dust data cards to complete, sign, and send would be 315. MSHA's estimates of the burden and cost to complete, sign, and send dust data cards, along with samples, to MSHA in the second year that the final rule is in effect are presented below.

Burden Hours

- 315 submissions x 0.025 hrs. = 8 hrs.
- 315 submissions x 0.1 hrs. = 32 hrs.

Total burden hours = 40 hrs.

Burden Costs

- 8 hrs. x \$69.98 wage rate = \$560
- 32 hrs. x \$28.66 wage rate = \$917

Total burden cost = \$1,477

Year 3

*Underground Mines:*

MSHA has not projected any additional costs for underground coal mines completing dust data cards and sending them along with the samples to MSHA in the third year because these mines would be using the CPDM to sample every day.

*Surface Mines:*

MSHA estimates that the number of dust data cards to complete, sign, and send in the third year would be 195.

Burden Hours

- 195 submissions x 0.025 hrs. = 5 hrs.
- 195 submissions x 0.1 hrs. = 20 hrs.

Total burden hours = 25 hrs.

#### Burden Costs

- 5 hrs. x \$69.98 wage rate = \$350
- 20 hrs. x \$28.66 wage rate = \$573

Total burden cost = \$923

#### Posting and Providing Copies of Sample Results – Proposed §§ 70.211(b), 71.209(b), 90.211(b)

Underground coal operators (under proposed § 70.211(b)) and surface coal operators (under proposed § 71.209(b)) must post sample results. Proposed § 90.211(b) would require mine operators to provide Part 90 miners with a copy of the sample results.

MSHA assumes that it takes the same amount of time to provide a copy of the sample results to the Part 90 miner as it does to post the sample results on the mine bulletin board. On average, MSHA estimates that a clerical employee takes 0.1 hours (6 minutes) to copy and post the summary of the sample results. The number of sample results to post equates to the number of samples taken.

#### Year 1

##### *Underground Mines:*

MSHA estimates that the number of samples to post would be 529. MSHA estimates that the burden and cost to post sample results in the first year that the rule is in effect would be approximately 53 hours (529 summaries x 0.1 hours) and \$1,378 (53 hours x \$26.00).

##### *Surface Mines:*

As noted above, since there is no additional sampling in surface coal mines in the first year of the final rule there are no cost for posting sample results.

#### Year 2

*Underground Mines:*

MSHA has not projected any additional costs for underground coal mines posting the gravimetric sample results in the second year because these mines would be using the CPDM to sample every day.

*Surface Mines:*

MSHA estimates that the number of samples to post would be 63. MSHA estimates that the burden and cost to post sample results in the second year that the rule is in effect would be approximately 7 burden hours (63 results x 0.1 hours) and a cost of \$178 (7 hours x \$25.45).

Year 3

*Underground Mines:*

MSHA has not projected any additional costs for underground coal mines completing posting the gravimetric sample results in the second year because these mines would be using the CPDM to sample every day.

*Surface Mine:*

MSHA estimates that the number of samples to post in the third year would be 39. MSHA estimates that the burden and cost to post sample results in the third year that the rule is in effect would be approximately 4 burden hours (39 results x 0.1 hours) and a cost of \$102 (4 hours x \$25.45).

Make Existing § 75.363 Record - Proposed §§ 70.207(i)(3), 70.208(f)(5), 70.208(g)(3), 70.209(g)(3), 90.208(g)(3), 90.209(e)(5) and 90.209(f)(3)

Under proposed §§ 70.207(i)(3), 70.208(f)(5), 70.208(g)(3), 70.209(g)(3), 90.208(g)(3), 90.209(e)(5) and 90.209(f)(3), when sample results collected by the underground coal operator indicate the equivalent concentration of a sample result is above the applicable standard, a record of the corrective actions taken must be made in the same manner as the record required by existing § 75.363.

Under existing § 75.363 a certified person would make the record and the record must be countersigned by a mine foreman or equivalent mine official. MSHA estimates that a certified person (earning a supervisor's wage rate) would take 6 minutes (0.1 hrs.) make the record and a mine official (also earning a supervisor's wage rate) would take 3 minutes (0.05 hrs.) to countersign the record.

*Underground Mines:*

### Year 1

For underground coal mines, MSHA estimates the number of records in year 1 would be 25. MSHA's estimates for the burden hours and costs are presented below.

#### Burden Hours

- 25 records x 0.05 hrs. = 1 hr.
- 25 records x 0.1 hrs. = 2 hrs.

Total burden hours = 3 hrs.

#### Burden Costs

- 1 hr. x \$84.70 wage rate = \$85
- 2 hrs. x \$84.70 wage rate = \$169

Total burden cost = \$254

### Year 2

For underground coal mines, MSHA estimates the number of records in the second year would be 700.

#### Burden Hours

- 700 records x 0.05 hrs. = 35 hrs.
- 700 records x 0.1 hrs. = 70 hrs.

Total burden hours = 105 hrs.

#### Burden Costs

- 35 hrs. x \$84.70 wage rate = \$2,965
- 70 hrs. x \$31.77 wage rate = \$2,224

Total burden cost = \$5,189

### Year 3

For underground coal mines, MSHA estimates the number of records in the third year would be 282.

#### Burden Hours

- 282 records x 0.05 hrs. = 14 hrs.
- 282 records x 0.1 hrs. = 28 hrs.

Total burden hours = 42 hrs.

#### Burden Costs

- 14 hrs. x \$84.70 wage rate = \$1,186
- 28 hrs. x \$31.77 wage rate = \$890

Total burden cost = \$2,022

#### Operator Adjustments to Plan – Proposed §§ 70.207(c)(2), 70.209(b)(2), 71.207(h)(2), and 90.208(b)(2)

For underground coal operators (under proposed §§ 70.207(c)(2), 70.209(b)(2), and 90.208(b)(2)) and surface coal operators (under proposed § 71.207(h)(2)) if a sample result is above the new applicable standard, the underground coal operator must make necessary adjustments to the dust control parameters in the mine ventilation plan and the surface coal operator must revise the dust control parameters.

MSHA estimates that the number of occasions where operators would make adjustments would be 25 in underground mines and 5 in surface mines. On average, MSHA estimates that it would take a supervisor (earning \$84.70 per hour in an underground mine and \$69.98 per hour in a surface mine) 15 minutes (0.25 hrs.) to make adjustments. MSHA's estimates for the burden hours and costs in the first year for underground mines are 6 burden hours (25 revisions x 0.25 hours) and a cost of \$508 (6 hours x \$84.70). MSHA's estimates for the burden hours and costs in the first year for surface mines are 1 hour (5 revisions x 0.25 hours) and \$70 (1 hour x \$69.98).

#### Notify Representative of the Miners – Existing §§ 75.370(a)(3)(i) and 75.370(f)(1) and Proposed §§ 71.300(a)(1) and 71.300(d)(1)

Existing §§ 75.370(a)(3)(i) and 75.370(f)(1) for underground coal operators and proposed §§ 71.300(a)(1) and 71.300(d)(1) for surface coal operators would require notification to the representative of miners of a plan revision. MSHA estimates that a clerical employee takes 15 minutes (0.25 hours) to notify and provide a copy of the plan to the representative of the miners. MSHA assumes that all miners' representatives would request a copy of the plan. MSHA estimates that the number of notifications would be equal to the number of occasions

corrective actions were submitted, which was determined above.

### Year 1

The number of notifications in the first year would be 504 for underground coal operators and 76 for surface coal mines. MSHA estimates that the burden and cost to notify the miners' representative and provide a copy if requested in the first year that the rule is in effect would be approximately 126 hours (504 notifications x 0.25 hours) and \$3,276 (126 hours x \$26.00) for underground coal operators and 19 hours (76 notifications x 0.25) and \$484 (19 hours x \$25.45) for surface coal operators.

### Year 2

The number of notifications in year 2 would be 666 for underground coal operators and 59 for surface coal mines. MSHA estimates that the burden and cost to notify the miners' representative and provide a copy if requested in the second year that the rule is in effect would be approximately 167 hours (666 notifications x 0.25 hours) and \$4,342 (167 hours x \$26.00) for underground coal operators. For surface operators MSHA estimates 15 hours (59 notifications x 0.25 hours) and \$382 (15 hours x \$25.45).

### Year 3

The number of notifications in the third year would be 269 for underground coal operators and 36 for surface coal mines. MSHA estimates that the burden and cost to notify the miners' representative, and provide a copy if requested, in the third year that the rule is in effect would be approximately 68 hours (269 notifications x 0.25 hours) and \$1,768 (68 hours x \$26.00) for underground coal operators and 10 hours (36 notifications x 0.25 hours) and \$255 (10 hours x \$25.45) for surface coal operators.

### Post Copy of Plan Revision – Existing §§ 75.370(a)(3)(iii) and 75.370(f)(3) and Proposed §§ 71.301(a)(3) and 71.301(d)(3)

Underground coal operators under existing §§ 75.370(a)(3)(iii) and 75.370(f)(3) and surface coal operators under proposed §§ 71.301(a)(3) and 71.301(d)(3) would be required to post a copy of the proposed or revised Plan on the mine bulletin board. MSHA estimates that a clerical employee would take 15 minutes (0.25 hours) to copy and post.

### Year 1

MSHA estimates that the number of postings in year 1 would be 504 in underground mines and 76 for surface mines. MSHA estimates that the burden and cost to copy and post in the first year the final rule is effective would be approximately 126 hours (504 notifications x 0.25 hours) and \$3,276 (126 hours x \$26.00) for underground coal operators and 19 hours (76 x 0.25) and \$484 (19 hours x \$25.45) for surface coal operators.

## Year 2

MSHA estimates that the number of postings in the second year would be 666 in underground mines and 59 in surface coal mines. MSHA estimates that the burden and cost to copy and post in the second year the final rule is effective would be approximately 167 hours (666 notifications x 0.25 hours) and \$4,342 (167 hours x \$26.00) for underground coal operators. For surface operators MSHA estimates 15 hours (59 notifications x 0.25 hours) and \$382 (15 hours x \$25.45) for surface coal operators.

## Year 3

MSHA estimates that the number of postings in the third year would be 269 in underground mines and 36 in surface coal mines. MSHA estimates that the burden and cost to copy and post in the third year the final rule is effective would be approximately 68 hours (269 notifications x 0.25 hours) and \$1,768 (68 hours x \$26.00) for underground coal operators and 10 hours (36 notifications x 0.25 hours) and \$255 (10 hours x \$25.45) for surface coal operators.

## Review CPDM Plan - Proposed §§ 70.208(f)(4), 70.208(g)(4), 70.209(g)(4), 71.207(k)(4), 71.207(n)(2), 90.209(e)(4) and 90.209(f)(4)

Underground coal operators under proposed §§ 70.208(f)(3) and 90.209(e)(4) must review the adequacy of the approved CPDM Performance Plan and submit any necessary revisions when a valid end-of-shift equivalent concentration measurement meets or exceeds the applicable ECV or a weekly accumulated exposure exceeds the weekly permissible accumulated exposure. Surface coal operators under proposed § 71.207(k)(4) must review the adequacy of the approved CPDM Performance Plan and submit any revisions upon issuance of a citation for violation of the applicable standard. In addition, for underground coal operators (under proposed §§ 70.208(g)(4), 70.209(g)(4), and 90.209(f)(4)) and surface coal operators (under proposed § 71.207(n)(2)) the CPDM plan must be reviewed when a valid end-of shift equivalent concentration measurement exceeds the applicable standard but is below the applicable ECV.

MSHA does not project any additional citations for Part 90 miners and expects that surface operators would choose to use the gravimetric sampler. Therefore, no costs were estimated for reviewing the CPDM plan due to the sampling results of either the Part 90 miners or the DWPs exceeding the applicable standard. MSHA estimates that an underground coal supervisor would take 15 minutes (0.25 hrs.) to review a CPDM plan.

## Year 2

MSHA estimates that the number of CPDM plans to review would be 700 for underground coal operators. On average, MSHA estimates that the burden and cost to submit corrective actions in the second year that the final rule is effective would be approximately 175 hours (700 reviews x 0.25 hours) and \$14,823 (175 hours x \$84.70)

### Year 3

MSHA estimates that the number of CPDM plans to review in the third year would be 282 for underground coal operators. MSHA estimates that the burden and cost to submit corrective actions in the third year that the final rule is effective would be approximately 71 hours (282 reviews x 0.25 hours) and \$6,014 (71 hours x \$84.70).

### **L. Proposed § 72.100 Periodic Examinations**

#### Burden to Develop Periodic Examinations Plan

Proposed § 72.100 (d) would require each coal operator to develop and submit to NIOSH a plan for providing miners with the required chest x-rays, spirometry, symptom assessment, and occupational history and a roster specifying the name and current address of each miner covered by the plan. Proposed paragraph (e) would require the operator to post the approved plan on the mine bulletin board.

Under Title 42, § 37.4, each operator of an underground coal mine is already required to submit to the Secretary of Health and Human Services a plan for providing miners with the required chest x-rays and to post it on the mine bulletin board. NIOSH has required that rosters be provided since the early 1990s, so this requirement would not create an additional burden for mine operators.

### Year 1

MSHA assumes that, in the first year of the proposed rule, underground coal operators would simply revise the existing rosters and plans for chest x-rays to add spirometry, symptom assessment, and occupational history. MSHA estimates that it would take a supervisor, earning \$84.70 an hour, ten minutes (0.167 hours) to revise the plan and roster and a clerical employee, earning \$26.00 an hour, five minutes (0.0833 hours) to copy and submit the revised plan and roster. Each surface coal operator would have to develop and submit to NIOSH a roster and plan for providing chest x-rays, spirometry, symptom assessment, and occupational history. MSHA estimates that it would take a supervisor earning \$69.98 an hour, one hour to develop the plan and roster and a clerical employee, earning \$25.45 an hour 5 minutes (0.083 hours) to copy and submit the plan and roster. MSHA estimates that there are 424 underground mines that would need revisions and 1,123 surface mines that will need to develop and submit plans and rosters. MSHA's estimates of first-year burden and costs under proposed § 72.100 (d) and (e) are presented below.

#### *Underground Mines:*

##### Burden Hours

- 424 Revisions x 0.167 hrs. = 71 hrs.
- 424 Revisions x 0.083 hrs. = 35 hrs.

Total burden hours = 106 hrs.

#### Burden Costs

- 71 hrs. x \$84.70 wage rate = \$6,014
- 35 hrs. x \$26.00 wage rate = \$910

Total burden cost = \$6,924

#### *Surface Mines:*

#### Burden Hours

- 1,123 plans x 1 hr. = 1,123 hrs.
- 1,123 plans x 0.083 hrs. = 94 hrs.

Total burden hours = 1,217 hrs.

#### Burden Costs

- 1,123 hrs. x \$69.98 wage rate = \$78,588
- 94 hrs. x \$25.45 wage rate = \$2,392

Total burden cost = \$80,980

#### Burden to Revise Plan in Years 2 and 3

Since chest x-rays, spirometry, symptom assessment, and occupational history must be provided at least once every 5 years, MSHA assumes that each year one fifth of the mines would have to revise a plan and roster. MSHA estimates that 84 underground mines and 224 surface mines will need revisions. MSHA estimates that it would take a supervisor, earning \$84.70 an hour in an underground coal mine or \$69.98 an hour in a surface coal mine, ten minutes (0.167 hours) to revise the plan and roster and a clerical employee, earning \$26.00 an hour in an underground coal mine or \$25.45 an hour in a surface coal mine, five minutes (0.0833 hours) to copy and submit the revised plan and roster. MSHA's estimates of the burden and cost to revise the plan and roster are presented below.

#### *Underground Mines:*

#### Burden Hours

- 84 Revisions x 0.167 hrs. = 14 hrs.
- 84 Revisions x 0.083 hrs. = 7 hrs.

Total burden hours = 21 hrs.

Burden Costs

- 14 hrs. x \$84.70 wage rate = \$1,186
- 7 hrs. x \$26.00 wage rate = \$182

Total burden cost = \$1,368

*Surface Mines:*

Burden Hours

- 224 revisions x 0.167 hrs. = 37 hrs.
- 224 revisions x 0.083 hrs. = 19 hrs.

Total burden hours = 56 hrs.

Burden Costs

- 37 hrs. x \$69.98 wage rate = \$2,589
- 19 hrs. x \$25.45 wage rate = \$484

Total burden cost = \$3,073

**M. §§ 71.201, 71.206, 71.208, 71.209, 90.201, 90.206, 90.209, 90.210, and 90.211 CPDM Costs for Surface Mines**

Burden to Write and Submit CPDM Plans to MSHA for Approval

Proposed §§ 71.206(a) and 90.206(b) would require operators who use CPDMs to develop and submit for approval a CPDM Performance Plan (Plan) prior to using them. The proposal specifies the information that would be required to be contained in the Plan and would establish Plan approval procedures.

MSHA assumes that no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that 200 surface mines would have Part 90 miners and that each would need a CPDM plan. In addition, MSHA estimates that 20 plans (10 percent) would have to be resubmitted before approval. On average, MSHA estimates that it takes a supervisor,

earning \$69.98 an hour, 4 hours to write a proposed CPDM plan and a clerical employee, earning \$25.45 an hour, 15 minutes (0.25 hours) to copy and submit it. MSHA's estimates of the burden and cost to write, copy and submit a CPDM plan are presented below.

#### Burden Hours

- 220 plans x 4 hrs. = 880 hrs.
- 220 plans x 0.25 hrs. = 55 hrs.

Total burden hours = 935

#### Burden Costs

- 880 hrs. x \$69.98 wage rate = \$61,582
- 55 hrs. x \$25.45 wage rate = \$1,400

Total burden cost = \$62,982

#### Burden to Make Records for CPDM Training

Proposed §§ 71.201(h) and 90.201(i) would require coal operators keep a record of miners who receive CPDM training. MSHA assumes that no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that 200 Part 90 miners at surface mines would receive CPDM training. MSHA estimates that it takes a clerical employee 0.00833 hours (30 seconds) to make a record of each Part 90 miner who received CPDM training. MSHA estimates that the annual burden and cost to make a record of CPDM training would be approximately 2 hours (200 records x 0.00833 hours) and \$51 (2 hours x \$25.45).

#### Burden to Notify and Provide to the Representative of Miners CPDM Plans Submitted to MSHA for Approval

Proposed § 71.206(a)(1) would require that a copy of the CPDM plan be provided to the representative of the miners, if requested, and proposed § 71.206(c)(1) would require a copy of any revision be provided as well. MSHA assumes that no surface operator would use CPDMs for anyone except Part 90 miners. Since surface operators do not have to provide a copy of Part 90 CPDM plans to the representative of the miners, MSHA assumes that there is no burden or cost to surface operators for these two provisions.

#### Burden to Post and Provide a Copy of the CPDM Plans to the Part 90 Miners

Proposed § 71.206(a)(3) would require a copy of the CPDM performance plan to be posted and § 90.206(d) would require that the Part 90 miners be given a copy of the CPDM plan. MSHA

assumes that no plans would be posted because no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that a clerical employee would take 5 minutes (0.083 hours) to copy and provide the plan to a Part 90 miner. MSHA estimates that there are 200 Part 90 miners who would receive a copy of the CPDM plan. MSHA estimates that the first year burden and cost to provide the plan to all Part 90 miners would be approximately 17 hours (200 plans x 0.0833 hours) and \$433 (17 hours x \$25.45).

#### Burden to Revise and Submit Revisions to Approved CPDM Plans

MSHA anticipates that revisions to approved CPDM plans would occur from situations that develop as a result of proposed §§ 71.206(c), 71.206(d), 90.206(b), 90.206(e), 90.209(e)(4) and 90.209(f)(4). MSHA estimates that approximately 49 surface mines (25 percent) with Part 90 miners would make revisions to approved CPDM plans each year. On average, MSHA estimates that a supervisor takes 15 minutes (0.25 hours) to revise an approved plan and a clerical employee takes 15 minutes (0.25 hours) to copy and submit the revision. MSHA's estimates of the burden and cost to make and submit revisions to the plan are presented below.

##### Burden Hours

- 49 revisions x 0.25 hrs. per revision = 12 hrs.
- 49 revisions x 0.25 hrs. per copy and submission = 12 hrs.

Total burden hours = 24

##### Burden Costs

- 12 hrs. x \$69.98 wage rate = \$840
- 12 hrs. x \$25.45 wage rate = \$305

Total burden cost = \$1,145

#### Burden to Provide the Part 90 Miners with a Copy of the Revised CPDM Plans

Proposed § 71.206(c)(3) would require a copy of the CPDM performance plan revisions to be posted and § 90.206(d) would require that the Part 90 miners be given a copy of the CPDM plan revisions. MSHA assumes that no plans would be posted because no surface operator would choose to use the CPDM unless they have Part 90 miners. On average, MSHA estimates that a clerical employee takes 15 minutes (0.25 hours) to copy and provide the plan to the Part 90 miners. MSHA estimates that there are 49 Part 90 miners who would receive a copy of the revised CPDM plan. MSHA estimates that the second year and subsequent years burden hours and cost to provide the revised plan to Part 90 miners would be approximately 12 hours (49 plans x 0.25) and \$305 (12 hours x \$25.45).

#### Burden to Validate, Certify, and Transmit Electronically CPDM Data to MSHA

Proposed §§ 71.208(f) and 90.210(f) would require that, within 12 hours after the end of the last sampling shift of the work week, a designated mine official must validate, certify, and transmit electronically to MSHA all daily sample and error data file information collected during the previous calendar week and stored in the CPDM. MSHA assumes that since no surface operator would choose to use the CPDM unless they have Part 90 miners.

MSHA estimates that validating, certifying, and uploading the CPDM data from a CPDM to a computer and then transmitting it electronically to MSHA takes a designated mine official, earning a supervisor's wage of \$69.98, 6 minutes (0.1 hours) per CPDM per week. The number of CPDMs is equal to the number of Part 90 miners. MSHA is assuming 50 weeks per year for all mine sizes. MSHA estimates that the annual burden and cost to validate, certify, and transmit electronically to MSHA all daily sample and error data file information would be approximately 1,000 hours (200 CPDMs x 50 weeks x 0.1 hours) and \$69,980 (1,000 hours x \$69.98).

#### Burden to Validate, Certify, and Post CPDM Sampling Information

Proposed §§ 71.209(c) and 90.211(c) would require operators to post certain sampling information and provide it to Part 90 miners. Proposed §§ 71.209(c) and 90.201(f) would require the operator to make a record showing the length of each shift for each DWP and Part 90 miner. MSHA assumes that no surface operator would choose to use the CPDM unless they have Part 90 miners; therefore, the shift lengths of the DWPs would not have to be recorded. The shift lengths of the 200 Part 90 miners would have to be recorded every time the CPDM is used.

A new CPDM filter is used every time a CPDM is used to sample, and sampling information is generated after the sample is taken. The number of sets of sampling information to be completed and posted equals the number of CPDM filters used. MSHA estimates that miners are working 5 days per week for 50 weeks or 250 days a year. MSHA estimates that a supervisor, earning \$69.98 an hour, would take 3 minutes (0.05 hours) to do the functions described above. MSHA estimates that the annual burden and cost to make a record for the length of each shift for each Part 90 miner would be approximately 2,500 hours (200 Part 90 miners x 250 days x 0.05 hours) and \$174,950 (2,500 hours x \$69.98).

#### **N. Proposed §§ 70.212 and 71.210 Change in Status Report**

##### Burden to Change Status Report

Proposed §§ 70.212(c) and 71.210(c) are new and would require the mine operator to report status changes that affect the operational readiness of any CPDM unit. Since the CPDM is a new technology, MSHA has no basis upon which to estimate the number of times this would occur. However, this requirement should represent a minimal burden since the reporting can be done electronically and the mines using the CPDM would all have computers (in order to download and transmit the CPDM sampling data) to do the reporting. MSHA has assessed one burden hour for this provision at a cost of \$84.70, the supervisor's wage rate for underground mines, where the preponderance of the CPDMs would be used.

## **O. Proposed § 71.207(c) Listing DWPs**

### Estimated Burden for Listing the DWPs

Proposed § 71.207(c) would require mine operators to provide the district manager with a list identifying the specific work positions where DWP samples would be collected. MSHA estimates that it would take a supervisor 5 minutes (0.0833 hours) to prepare the list. The supervisor's wage rate is \$84.70 at underground mines and \$69.98 at surface mines. A clerical employee would take 5 minutes (0.0833 hours) to type the list and mail it to MSHA. The clerical wage is \$26.00 at underground mines and \$25.45 at surface mines.

### First Year Costs

In the first year the number of lists would be equal to the number of surface areas at underground mines plus the number of surface mines and facilities.

#### *Surface Areas at Underground Mines*

MSHA estimates that there are 32 surface areas at underground mines. MSHA's estimate of the first year burden and cost to underground mines is presented below.

#### Year 1

##### Burden Hours

- 32 lists x 0.0833 hrs. = 2.7 hrs.
- 32 lists x 0.0833 hrs. = 2.7 hrs.

Total burden hours = 5.4 hrs

##### Burden Costs

- 2.7 hrs. x \$84.70 = \$229
- 2.7 hrs. x \$26.00 = \$70

Total burden cost = \$299

#### *Surface Mines and Facilities*

MSHA estimates that there are 1,123 surface mines and facilities. MSHA's estimate of the first year burden hours and cost to surface mines is presented below.

## Year 1

### Burden Hours

- 1,123 lists x 0.0833 hrs. = 94 hrs.
- 1,123 lists x 0.0833 hrs. = 94 hrs.

Total burden hours = 188 hrs.

### Burden Costs

- 94 hrs. x \$69.98 = \$6,578
- 94 hrs. x \$25.45 = \$2,392

Total burden costs = \$8,970

### Annual Costs

MSHA assumes that about 10 percent of underground mines with surface areas and 10 percent of surface mines and facilities would have to submit a new list of DWPs. The 10 percent includes new mines and facilities submitting a list for the first time and existing mines and facilities revising the list to account for changes in their operations.

### *Surface Areas at Underground Mines*

MSHA estimates that there are 3 (32 x 0.1) surface areas at underground mines that would have to submit a new DWP list. MSHA's estimate of the annual burden hours and cost to surface mines is presented below.

### Burden Hours

- 3 lists x 0.0833 hrs. = 0.3 hrs.
- 3 lists x 0.0833 hrs. = 0.3 hrs.

Total burden hours = 0.6 hrs.

### Burden Costs

- 0.3 hrs. x \$84.70 = \$25
- 0.3 hrs. x \$26.00 = \$8

Total burden costs = \$33

### *Surface Mines and Facilities*

MSHA estimates that there are 112 surface mines and facilities (1,123 x 0.1) that would have to submit a new DWP list. MSHA's estimate of the annual burden hours and cost to surface mines is presented below.

#### Burden Hours

- 112 lists x 0.0833 hrs. = 9 hrs.
- 112 lists x 0.0833 hrs. = 9 hrs.

Total burden hours = 18 hrs

#### Burden Costs

- 9 hrs. x \$69.98 = \$630
- 9 hrs. x \$25.45 = \$229

Total burden costs = \$859

### **Proposed § 72.700 Respiratory Equipment; Respirable Dust**

#### Burden to Make a Record of Respiratory Training

Proposed §§ 72.700 (c) would require coal operators to make a record after completion of the respirator training. MSHA estimates that 11,047 underground miners would need the training annually. For surface mines, the number of miners needing the training due to a violation of the standard equals the estimated number of violations projected for the DWPs. MSHA increased this estimate by 5 percent to account for the times when the result exceeded the standard but did not exceed the ECV. The number of miners to be trained in surface coal mines would vary according to the estimated number of violations, 80 miners in the first year, 62 miners in the second year, and 38 miners in the third year.

MSHA estimates that it would take a clerical employee, earning \$26.00 an hour in an underground coal mine or \$25.45 an hour in a surface mine, thirty seconds (0.00833 hours) per trainee to make a record of respirator training. MSHA's estimates of the burden hours and costs are presented below.

### *Underground Mines*

#### Burden Hours

- 11,047 records x 0.0083 hrs. = 92 hrs.

#### Burden Costs

- 92 hrs. x \$26.00 wage rate = \$2,393

#### *Surface Mines*

The estimates for surface mines are based upon the projected number of citations and vary from year to year. MSHA estimates that one miner would receive respirator training for each citation.

#### Year 1

- 80 miners x 0.0083 hrs. = 0.66 hr.
- 0.66 hr. x \$25.45 wage rate = \$17

#### Year 2

- 62 miners x 0.0083 hrs. = 0.51 hr.
- 0.51 hr. x \$25.45 wage rate = \$13

#### Year 3

- 38 miners x 0.0083 hrs. = 0.32 hr.
- 0.32 hr. x \$25.45 wage rate = \$8

### **Proposed § 75.362 On-Shift Examinations**

#### **Burden to make a record of the examinations results and have them verified and countersigned**

#### Burden to make a record of examinations

In order to ensure compliance with the respirable dust control parameters specified in the mine ventilation plan proposed § 75.362(a)(2) would require that the person conducting the examination at underground mines also record the results of the examination and corrective actions taken at the end of each shift for each MMU. MSHA estimates that a supervisory person, earning \$84.70 per hour, would take 3 minutes (0.05 hours) to make a record of the examination for the average mine in all mine sizes.

Based upon the number of shifts operated at each mine size, MSHA estimates that the examination for 547,650 shifts would have to be recorded each year. MSHA estimates that underground coal operators annual burden hours and cost to record the results of on-shift examinations are approximately 27,383 hours (547,650 records x 0.05 hours per record) and

\$2,319,340 (27,383 hours x \$84.70).

Burden to certify examination by initials, date, and time at examination location

Proposed § 75.362(g)(2)(i) would require that the proposed § 75.362(a)(2) record be certified by initials, date and time on a board maintained at the section load-out or similar location showing that the examination was made prior to resuming production. The certified person directing the on shift examination would do the certification. This proposed standard does not add any new burdens or costs and is already being done under existing §§ 75.362(g)(1) and 75.362(g)(2).

Burden to have the record verified and countersigned

Proposed § 75.362(g)(2)(ii) would require that the proposed § 75.362(a)(2) record be verified by initials and date for compliance with the respirable dust control parameters specified in the mine ventilation plan. Verification would have to be made no later than the end of the shift for which the examination was made. Proposed § 75.362(g)(3) would require that the mine foreman or equivalent official countersign each examination record under proposed § 75.362(a)(2) after it is verified by the certified person directing the examination under proposed § 75.362 (g)(2)(ii). MSHA estimates that: it takes 1 minute (0.0167 hours) to verify the record by a certified person earning \$84.70 per hour ; and another 1 minute (0.0167 hours) to review and countersign the record by a mine foreman or equivalent mine official earning \$84.70 per hour. MSHA estimates that underground coal operators annual burden hours and costs to verify and countersign the proposed § 75.362(a)(2) record are approximately 18,292 hours ( 547,650 records x 0.0334 hours) and \$3,098,582 (18,292 hours x \$84.70).

Table 12-1: Summary of the First Year/Annual Paper Work Burden Hours

Detail	Standard.	Year 1 Burden hours.	Year 2 Burden hours.	Year 3 Burden hours.
<b>Abatement Sampling</b>				
Submit Corrective Actions	§§70.207(g)(2), 70.208(f)(3), 70.209(e)(2), 71.207(k)(2) and 90.208(e)(2)	204	254	110
Complete, sign & send dust data card	§§70.210(c), 71.208(c) and 90.210(c)	331	40	25
Post sample results	§§70.211(b), 71.209(b) and 90.211(b)	53	7	4
Make 75.363 Record & Countersign	§§70.207(i)(3) and 90.208(g)(3)	3	105	42

Make adjustment to plan & copy and send	§§70.207(c)(2), 70.207(h), 70.209(b)(2), 70.209(f), 70.207(h)(2), 71.207(l), 90.208(b)(2), and 90.208(f)	7		
Notify and provide to the Miners Rep.	§§71.300(a)(1) and 71.301(d)(1)	145	182	78
Post plan	§§ 71.300(a)(3) and 71.301(d)(3)	145	182	78
Review CPDM Plans	§§70.208(f)(4), 71.207(k)(4) & 90.209(e)(4)		175	71
<b>Part 90 Miners at Surface Mines</b>				
Make CPDM plan and submit	§90.206(b)	935		
Make record of CPDM training	§90.201(h)	2		
Make copy & provide plan to Part 90 miner	§90.206(d)	17		
Revise plans & submit revisions	§§90.206(b), 90.209(e)(4) and 90.209(f)(4).		24	
Make copy & provide revised plan to Part 90 miner	§90.206(d)		12	
Transmit CPDM data electronically	§90.210(f)		1,000	1,000
Validate, certify & post CPDM sampling info	§§90.201(f) and 90.211(c)		2,500	2,500
<b>Periodic Examinations</b>				
Develop Periodic Examinations Plan and Roster	§§72.100 (d) and (e)	1,323		
Make revisions to plan	§§72.100 (d) and (e)	77	77	77
<b>Submit Electronically</b>				
Transmit CPDM data electronically for DO & Part 90 miners	§§70.210(f) and 90.210(f)		8,570	8,570

Transmit CPDM data electronically for ODO	§70.210(f)		1,918	3,835
Transmit CPDM data electronically for Suppl. controls	§70.210(f)	870		
<b>Supplementary Controls</b>				
Write and submit request for suppl. Controls	§70.208(h)	479		
<b>CPDM Plans</b>				
Write and submit CPDM plans	§70.206(a)	1,802		
Make revisions to plan	§70.206(a)	111		
Provide plans to miners rep.	§70.206(a)(i)	143		
Post plans	§70.206(a)(iii)	143		
Provide Part 90 miner approved plan	§70.206(a)(iii)	17		
Revise approved plan	§70.206(c)		196	196
Provide revisions to miners' representative	§70.206(c)(1)		98	98
Post revisions	§70.206(c)(3)		98	98
<b>Training</b>				
Make record of CPDM training	§70.201(k)		65	65
<b>CPDM Sampling Information</b>				
Post sample info for DO & provide to Part 90 miners	§70.211(c)		28,420	28,420
Post sample info for ODO	§70.211(c)		5,386	10,772
Post sample info for suppl. Controls	§70.211(c)	2,490		
<b>Record of Material Produced</b>				
Make record of material produced	§70.201(i)	28,488	28,488	28,488
<b>Record of Shift Length</b>				
Make record of shift length (surface)	§71.201(d)	22,995	22,995	22,995
Make a record of shift	§71.201(d)	1,023	1,023	1,023

length for DWPs at surface areas of UG mines				
Make a record of shift length for MMUs at UG mines	§70.201(g)	9,146	9,146	9,146
<b>Gravimetric Sampler</b>				
Send sample & dust data card (surface)	§71.208(c)	1,235	1,235	1,235
Post sample results (surface)	§71.209(b)	988	988	988
Send sample & dust data card (UG.)	§§70.210(c) and 90.210(c)	1,912	(2,121)	(2,686)
Post sample results (UG.)	§70.211(b)	(181)	(746)	(746)
<b>DWP Lists</b>				
Make a list of DWPs working at surface areas of UG Mines	§71.207(c)	6	1	1
Make a list of DWPs working at surface mines and facilities	§71.207(c)	188	18	18
<b>75.362 Examinations</b>				
Make a record of examination	§75.362(a)(2)	27,383	27,383	27,383
Verify, review & countersign record	§§75.362(g)(2)(ii) and (g)(3)	18,292	18,292	18,292
<b>Respiratory Training</b>				
Make a record of respiratory training (UG)	§72.700(c)	92	92	92
Make a record of respiratory training (surface)	§72.700(c)	0.66	0.51	0.32
<b>Total</b>		<b>120,864</b>	<b>156,103</b>	<b>162,267</b>

Table 12-2: Summary of the First Year/Annual Paper Work Burden Costs.

Detail	Standard.	Year 1 Burden Cost	Year 2 Burden Cost	Year 3 Burden Cost
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Abatement Sampling				
Submit corrective actions	§§70.207(g)(2), 70.208(f)(3), 70.209(e)(2), 71.207(k)(2) and 90.208(e)(2)	\$13,575	\$17,063	\$7,289
Complete, sign & send dust data card	§§70.210(c), 71.208(c) and 90.210(c)	\$14,008	\$1,477	\$923
Post sample results	§§70.211(b), 71.209(b) and 90.211(b)	\$1,376	\$178	\$102
Make 75.363 record & countersign	§§70.207(i)(3) and 90.208(g)(3)	\$254	\$5,188	\$2,075
Make adjustment to plan & copy and send	§§70.207(c)(2), 70.207(h), 70.209(b)(2), 70.209(f), 70.207(h)(2), 71.207(l), 90.208(b)(2), and 90.208(f)	\$578		
Notify and provide to the Miners' Representative	§§71.300(a)(1) and 71.301(d)(1)	\$3,760	\$4,724	\$2,023
Post plan	§§71.300(a)(3) and 71.301(d)(3)	\$3,760	\$4,724	\$2,023
Review CPDM plans	§§70.208(f)(4), 71.207(k)(4) and 90.209(e)(4)		\$14,823	\$6,014
Part 90 Miners at Surface Mines				
Make CPDM plan and submit	§90.206(b)	\$62,982		
Make record of CPDM training	§90.201(h)	\$51		
Make copy & provide plan to Part 90 miner	§90.206(d)	\$433		
Revise plans & submit revisions	§§90.206(b), 90.209(e)(4) and 90.209(f)(4).		\$1,145	
Make copy & provide revised plan to Part 90 miner	§90.206(d)		\$305	

Transmit CPDM data electronically	§90.210(f)		\$69,980	\$69,980
Validate, certify & post CPDM sample info	§§90.201(f) and 90.211(c)		\$174,950	\$174,950
<b>Periodic Examinations</b>				
Periodic Examinations Plan and Roster	§§72.100 (d) and (e),	\$87,896		
Make revisions to plan	§§72.100 (d) and (e),	\$4,464	\$4,464	\$4,464
<b>Submit Electronically</b>				
Transmit CPDM data electronically for DO & Part 90 miners	§§70.210(f) and 90.210(f)		\$725,880	\$725,880
Transmit CPDM data electronically for ODO	§70.210(f)		\$162,455	\$324,825
Transmit CPDM data electronically for suppl. controls	§70.210(f)	\$73,689		
<b>Supplementary Controls</b>				
Write and submit request for suppl. Controls	§70.208(h)	\$39,691		
<b>CPDM Plans</b>				
Write and submit CPDM plans	§70.206(a)	\$146,407		
Make revisions to plan	§70.206(a)	\$7,230		
Provide plans to miners' representative	§70.206(a)(i)	\$3,718		
Post plans	§70.206(a)(iii)	\$3,718		
Provide Part 90 miner approved plan	§70.206(a)(iii)	\$442		
Revise approved plan	§70.206(c)		\$10,849	\$10,849
Provide revisions to miners' representative	§70.206(c)(1)		\$2,548	\$2,548
Post revisions	§70.206(c)(3)		\$2,548	\$2,548
<b>Training</b>				
Make record of CPDM training	§70.201(k)		\$1,687	\$1,687
<b>CPDM Sampling Information</b>				
Post sample info for DO & provide to Part	§70.211(c)		\$2,407,174	\$2,407,174

90 miners				
Post sample info for ODO	§70.211(c)		\$456,194	\$912,388
Post sample info for suppl. Controls	§70.211(c)	\$210,903		
<b>Record of Material Produced</b>				
Make record of material produced	§70.201(i)	\$2,412,933	\$2,412,933	\$2,412,933
<b>Record of Shift Length</b>				
Make record of shift length (surface)	§71.201(d)	\$732,163	\$732,163	\$732,163
Make a record of shift length for DWPs at surface areas of UG mines	§71.201(d)	\$36,112	\$36,112	\$36,112
Make a record of shift length for MMUs at UG mines	§70.201(g)	\$774,666	\$774,666	\$774,666
<b>Gravimetric Sampler</b>				
Send sample & dust data card (surface)	§71.208(c)	\$45,601	\$45,601	\$45,601
Post sample results (surface)	§71.209(b)	\$25,145	\$25,145	\$25,145
Send sample & dust data card (UG.)	§§70.210(c) and 90.210(c)	\$80,964	-\$89,826	-\$113,758
Post sample results (UG.)	§70.211(b)	-\$4,706	-\$19,396	-\$19,396
<b>DWP Lists</b>				
Make a list of DWPs working at surface areas of UG mines	§71.207(c)	\$295	\$28	\$28
Make a list of DWPs working at surface mine and facilities	§71.207(c)	\$8,927	\$859	\$859
<b>75.362 Examinations</b>				
Make a record of examination	§75.362(a)(2)	\$2,319,298	\$2,319,298	\$2,319,298
Verify, review & countersign record	§§75.362(g)(2)(ii) and (g)(3)	\$3,098,582	\$3,098,582	\$3,098,582
<b>Respiratory Training</b>				

Make a record of respiratory training (UG)	§72.700(c)	\$2,392	\$2,392	\$2,392
Make a record of respiratory training (surface)	§72.700(c)	\$17	\$13	\$8
<b>Total</b>		<b>\$10,211,323</b>	<b>\$13,406,925</b>	<b>\$13,972,373</b>

Table 12-3 - Total Number of Annual Respondents/Responses

Detail	Standard.	Number of Respondents	Number of Times to Respond	Number of Annual Responses
<b>Abatement Sampling</b>				
Submit corrective actions	§§70.207(g)(2), 70.208(f)(3), 70.209(e)(2), 71.207(k)(2) and 90.208(e)(2)	500	1.160	580
Complete, sign & send dust data card	§§70.210(c), 71.208(c) and 90.210(c)	424	6.259	2,654
Post sample results	§§70.211(b), 71.209(b) and 90.211(b)	424	1.248	529
Make 75.363 record & countersign	§§70.207(i)(3) and 90.208(g)(3)	25	1	25
Make adjustment to plan & copy and send	§§70.207(c)(2), 70.207(h), 70.209(b)(2), 70.209(f), 70.207(h)(2), 71.207(l), 90.208(b)(2), and 90.208(f)	30	1	30
Notify and provide to the Miners' Representative	§§71.300(a)(1) and 71.301(d)(1)	500	1.160	580
Post plan	§§71.300(a)(3) and 71.301(d)(3)	500	1.160	580
Review CPDM plans	§§70.208(f)(4), 71.207(k)(4) and 90.209(e)(4)	424	1.651	700
<b>Part 90 Miners at Surface Mines</b>				

Make CPDM plan and submit	§90.206(b)	200	1.10	220
Make record of CPDM training	§90.201(h)	200	1	200
Make copy & provide plan to Part 90 miner	§90.206(d)	200	1	200
Revise plans & submit revisions	§§90.206(b), 90.209(e)(4) and 90.209(f)(4).	49	1	49
Make copy & provide revised plan to Part 90 miner	§90.206(d)	49	1	49
Transmit CPDM data electronically	§90.210(f)	200	50	10,000
Validate, certify & post CPDM sample info	§§90.201(f) and 90.211(c)	200	250	50,000
<b>Periodic Examinations</b>				
Develop Periodic Examinations Plan and Roster	§§72.100 (d) and (e)	1,547	1	1,547
Make revisions to plan	§§72.100 (d) and (e)	308	1	308
<b>Submit Electronically</b>				
Transmit CPDM data electronically for DO & Part 90 miners	§§70.210(f) and 90.210(f)	424	202.123	85,700
Transmit CPDM data electronically for ODO	§70.210(f)	424	88.915	37,700
Transmit CPDM data electronically for suppl. controls	§70.210(f)	424	20.519	8,700
<b>Supplementary Controls</b>				
Write and submit request for suppl. controls	§70.208(h)	40	1	40
<b>CPDM Plans</b>				
Write and submit CPDM plans	§70.206(a)	424	1	424
Make revisions to plan	§70.206(a)	148	1	148
Provide plans to miners' representative	§70.206(a)(i)	424	1.349	572

Post plans	§70.206(a)(iii)	424	1,349	572
Provide Part 90 miner approved plan	§70.206(a)(iii)	66	1,000	66
Revise approved plan	§70.206(c)	106	2	212
Provide revisions to miners' representative	§70.206(c)(1)	106	2	212
Post revisions	§70.206(c)(3)	106	2	212
<b>Training</b>				
Make record of CPDM training	§70.201(k)	424	18,427	7,813
<b>CPDM Sampling Information</b>				
Post sample info for DO & provide to Part 90 miners	§70.211(c)	424	1340,566	568,400
Post sample info for ODO	§70.211(c)	424	508,094	215,432
Post sample info for suppl. Controls	§70.211(c)	424	117,453	49,800
<b>Record of Material Produced</b>				
Make record of material produced	§70.201(i)	424	806,604	342,000
<b>Record of Shift Length</b>				
Make record of shift length (surface)	§71.201(d)	1,123	1,226	1,376,950
Make a record of shift length for DWPs at surface areas of UG mines	§71.201(d)	424	144	61,250
Make a record of shift length for MMUs at UG mines	§70.201(g)	424	1,292	547,650
<b>Gravimetric Sampler</b>				
Send sample & dust data card (surface)	§71.208(c)	1,123	8,796	9,878
Post sample results (surface)	§71.209(b)	1,123	8,796	9,878
Send sample & dust data card (UG.)	§§70.210(c) and 90.210(c)	424	-54,542	(23,126)
Post sample results (UG.)	§70.211(b)	424	-54,542	(23,126)
<b>DWP Lists</b>				

Make a list of DWPs working at surface areas of UG mines	§71.207(c)	6	1.000	6
Make a list of DWPs working at surface mine and facilities	§71.207(c)	112	1.000	112
<b>75.362 Examinations</b>				
Verify, review and countersign record of examination	§§75.362(g)(2)(ii) and (g)(3)	424	1,291.627	547,650
Make a record of examination	§75.362(a)(2)	424	1,291.627	547,650
<b>Respiratory Training</b>				
Make a record of respiratory training (surface)	§72.700(c)	180	1	180
Make a record of respiratory training (UG)	§72.700(c)	424	26.054	11,047
<b>Total</b>		<b>1547*</b>		<b>4,452,253</b>

\* Number of Respondents = 424 underground mine operators and 1123 surface mine operators.

**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. Proposed § 70.208(h) Use of Supplementary Controls**

Proposed § 70.208(h) would require that during the period specified, if an operator is unable to maintain compliance with the applicable standard for an MMU and has determined that all feasible engineering or environmental controls are being used on the MMU, the operator may request through the District Manager that the Administrator for Coal Mine Safety and Health approve the use of supplementary controls for a period not to exceed 6 months.

MSHA estimates that each request would be approximately 10 pages long. MSHA estimates copying costs of \$0.15 per page and \$1.00 for postage for a total of \$2.50 per request. MSHA estimates that a total of 29 MMUs would need to request the use of supplementary controls. MSHA estimates that the operators would make an average of 2 requests per MMU during the year, since the approval for such requests are only valid for 6 months. MSHA's estimates of the first year costs to underground coal operators are presented below.

##### Cost

- 29 MMUs x 2 requests x \$2.50 = \$145

#### **B. Proposed §§ 70.206 and 90.206 Burden for CPDM Performance Plan Submitted to MSHA for Approval**

##### Cost to Write and Submit CPDM Plans to MSHA for Approval

Proposed §§ 70.206(a) and 90.206(b) for underground coal mines would require that operators using a CPDM must have an approved CPDM Performance Plan to ensure that no miner working on an MMU is exposed to concentrations of respirable coal mine dust in excess of the applicable standard. MSHA assumes that underground operators would develop one CPDM plan that covers all miners working at underground mines including Part 90 miners; therefore, the number of plans would equal the number of mines, i.e., 424. MSHA estimates 4 pages per plan for mines with 1-19 employees and 8 pages for mines with 20 or more employees. MSHA estimates a copy cost of \$0.15 per page and \$1 for postage. MSHA's estimates of underground coal operators' first year costs are presented below.

##### Costs

- 81 plans x \$1.60 = \$130
- 343 plans x \$2.20 = \$755

Total = \$885

Cost to Revise CPDM Plans Submitted to MSHA for Approval

MSHA estimates that 35 percent of mine operators that submit CPDM plans to the Agency for approval would need to revise the plans before MSHA approval could be obtained. Thus, MSHA estimates that 148 plans would be revised (424 x 0.35). MSHA estimates 4 pages per plan for mines with 1-19 employees and 8 pages for mines with 20 or more employees. MSHA estimates a copy cost of \$0.15 per page and \$1 for postage. MSHA's estimates of underground coal operator's first year costs are presented below.

Costs

- 28 plans x \$1.60 = \$45
- 120 plans x \$2.20 = \$264

Total = \$309

Cost to Notify and Provide to the Representative of Miners CPDM Plans Submitted to MSHA for Approval

Proposed § 70.206(a)(1) would require that operators notify the representative of miners at least 5 days prior to submission of a CPDM Performance Plan and any revisions. If requested, the operator must provide a copy to the miners' representative. MSHA assumes that 100 percent of the time the representative of the miners would request a copy of the plan. MSHA estimates that 572 plans (424 proposed plans + 148 revised plans) would be provided to the miners' representatives. MSHA estimates 4 pages per plan (81 + 28 plans) for mines with 1-19 employees and 8 pages (343 + 120 plans) for larger mines. MSHA estimates a copying cost of \$0.15 per page. MSHA's estimates of underground coal operator's first year costs are presented below.

Costs

- 109 plans x \$0.60 = \$65
- 463 plans x \$1.20 = \$556

Total = \$621

Cost to Post CPDM Plans Submitted to MSHA for Approval

Proposed § 70.206(a)(3) would require that a copy of proposed CPDM Performance Plans and

any revisions submitted for approval be posted on the mine bulletin board. Proposed § 90.206(d) would require that if the mine has Part 90 miners, then they need to be given a copy of the plan. The number of proposed and revised CPDM plans submitted for approval determined above would be posted or provided to the Part 90 miners. MSHA estimates that the plans would be 4 pages long for mines with 1-19 employees and 8 pages for larger mines. MSHA estimates a copying cost of \$0.15 per copy. MSHA's estimates of underground coal operator's first year costs are presented below.

Costs

- 109 plans x \$0.60 = \$65
- 463 plans x \$1.20 = \$556

Total = \$621

Cost of Posting and Providing Approved Plans

Proposed § 90.206(d) would require that if the mine has Part 90 miners, then they need to be given a copy of the plan. MSHA estimates a copying cost of \$0.15 per page and estimates 8 pages per plan. MSHA's estimate of underground coal operators first year costs are presented below

Year 1

Costs

- 66 plans x \$1.20 = \$79

Cost to Revise and Submit Revisions to Approved CPDM Plans

MSHA anticipates that revisions to approved CPDM plans by underground coal operators would occur from situations that develop as a result of proposed §§ 70.206(c), 70.208(f)(4), 70.209(g)(4), 90.206(b), 90.209(e)(4) and 90.209(f)(4). MSHA estimates that, annually, 25 percent of underground coal mine operators would make revisions to approved CPDM plans. MSHA estimates that 106 underground mine operators would make 390 revisions each year. MSHA estimates that each revision would be 2 pages long. MSHA estimates copying costs of \$0.15 per page and \$1 for postage. The estimates of the annual costs to underground coal operators for the second and third years are presented below.

Costs

- 390 revisions x \$1.30 = \$507

Cost to Notify and Provide to the Representative of the Miners Revisions to Approved CPDM

## Plans

Under Proposed § 70.206(c)(1) revisions to approved CPDM plans must be provide to the representative of miners , if requested. MSHA assumes that 100% of the time the representative of miners would request the revisions to an approved CPDM plan. MSHA's estimates of the annual costs to underground coal operators to provide approved CPDM plan revisions to the representative of the miners for the second and third years are presented below.

### Costs

- 390 revisions x \$0.30 = \$117

## Cost to Post Revisions of Approved CPDM Plans

Proposed § 70.206(c)(3) would require that revisions of approved CPDM plans be posted on the mine bulletin board. Proposed § 90.206(d) would require that if the mine has Part 90 miners, then they need to be given a copy of the plan. The number of approved CPDM plan revisions determined above would be posted or provided to the Part 90 miners. MSHA estimates of the annual costs to underground coal operators to post and provide a copy of the approved CPDM plan revisions for the second and third years are presented below.

### Costs

- 390 revisions x \$0.30 = \$117

## **C. Proposed § 72.100 Periodic Examinations Cost to Make Plan**

### Cost to Develop Periodic Examinations Plan

Proposed §§ 72.100 (d) would require each coal operator to develop and submit to NIOSH a plan for providing miners with the required chest x-rays, spirometry, symptom assessment, and occupational history and a roster specifying the name and current address of each miner covered by the plan. Proposed paragraph (e) would require the operator to post the approved plan on the mine bulletin board. Under Title 42, § 37.4, each operator of an underground coal mine is already required to submit to the Secretary of Health and Human Services a plan for providing miners with the required chest x-rays and to post it on the mine bulletin board. NIOSH has required that rosters be provided since the early 1990s, so this requirement would not create an additional burden cost for mine operators.

### Year 1

MSHA assumes that, in the first year of the proposed rule, underground coal operators would simply revise the existing rosters and plans for chest x-rays to add spirometry, symptom assessment, and occupational history. Each surface coal operator would have to develop and

submit to NIOSH a roster and plan for providing chest x-rays, spirometry, symptom assessment, and occupational history. MSHA estimates that there are 424 underground mines that would need revisions and 1,123 surface mines that would need to develop and submit plans and rosters. MSHA estimates 2 pages per plan and roster or revision at a cost of \$0.15 per page and postage of \$1.00. MSHA's estimates of first-year costs under proposed § 72.100 (d) and (e) are presented below.

### *Underground Mines*

#### Costs

- 424 Revisions x \$1.30 = \$551

### *Surface Mines*

#### Costs

- 1,123 plans x \$1.30 = \$1,460

Total = \$2,011

### Cost to Revise Plan in Years 2 and 3

Since the chest x-rays, spirometry, symptom assessment, and occupational history must be provided at least once every 5 years, MSHA assumes that each year one fifth of the mines would have to revise a plan and roster. MSHA estimates that 84 underground coal mines and 224 surface mines would need revisions each year. MSHA's estimates of the annual cost to revise the plan and roster for the second and third years are presented below.

### *Underground Mines*

#### Costs

- 84 revisions x \$1.30 = \$109

### *Surface Mines*

#### Costs

- 224 revisions x \$1.30 = \$291

Total = \$400

## **D. Estimated Costs from Additional Citations Resulting from Proposed Rule**

Burden to Submit Corrective Actions - Proposed §§ 70.207(g)(2), 70.209(e)(2), 71.207(k)(2), 90.208(e)(2), 90.300(a) and Revising Mine Ventilation or Dust Control Plan – Proposed §§ 70.207(h), 70.209(f), 71.207(l), 71.300(a) and 90.208(f)

Underground coal operators (under proposed §§ 70.207(g)(2), 70.209(e)(2), 90.208(e)(2) and 90.300(a)) and surface coal operators (under proposed §§ 71.207(k)(2) and 71.300(a)) upon issuance of a citation for a violation of the applicable standard must submit to the district manager for approval the proposed corrective actions to lower the concentration of respirable dust to within the applicable standard.

Also, for underground coal operators (under proposed §§ 70.207(h), 70.209(f), and 90.208(f)) and surface coal operators (under proposed § 71.207(l)) a citation for violation of the applicable standard is terminated when the underground operator has submitted revised dust control parameters as part of the mine ventilation plan and when the surface operator has submitted a new or revised dust control plan applicable to the DWP in the citation and such changes have been approved by the District Manager.

MSHA estimates that each corrective action plan would be 2 pages long at a cost of \$0.15 per page and \$1 for postage. MSHA's estimates for costs are presented below.

### Year 1

MSHA estimates the number of corrective action submissions in the first year would be 504 for underground and 76 for surface mines.

#### *Underground Mines*

##### Costs

- 504 submissions x \$1.30 = \$655

#### *Surface Mines*

##### Costs

- 76 submissions x \$1.30 = \$99

Total = \$754

## Year 2

MSHA estimates the number of corrective action submissions in the second year would be 666 for underground coal operators and 59 for surface mines.

### *Underground Mines*

#### Costs

- 666 submissions x \$1.30 = \$866

### *Surface Mines*

#### Costs

- 59 submissions x \$1.30 = \$77

Total = \$943

## Year 3

MSHA estimates the number of corrective action submissions in the third year would be 269 for underground mines and 36 for surface mines.

### *Underground Mines*

#### Costs

- 269 submissions x \$1.30 = \$350

### *Surface Mines*

#### Costs

- 36 submissions x \$1.30 = \$47

Total = \$397

## Burden of Completing Dust Data Card and Sending the Gravimetric Sample and Card to MSHA

Underground coal operators (under proposed §§ 70.210(c) and 90.210(c)) and surface coal operators (under proposed § 71.208(c)) must complete the dust data card and submit the card to MSHA along with the sample. MSHA estimates postage at \$1.

### Year 1

#### *Underground Mines*

The number of dust data cards equates to the number of samples taken. Therefore, for underground coal mines, MSHA estimates that the number of dust data cards to complete, sign, and send would be 2,645. MSHA's estimates of the cost are presented below.

#### Costs

- 2,645 submissions x \$1.00 = \$2,645

#### *Surface Mines*

MSHA has not projected any additional costs for surface coal mines completing dust data cards and sending them along with the samples to MSHA in the first year because the existing standards currently require surface mine operators to take 5 additional samples, complete the data cards and send the results to MSHA whenever a sample result exceeds the applicable standard.

### Year 2

#### *Underground Mines*

MSHA has not projected any additional costs for underground coal mines completing dust data cards and sending them along with the samples to MSHA in the second year because these mines would be using the CPDM to sample every day.

#### *Surface Mines*

The number of dust data cards equates to the number of samples taken. Therefore, for surface coal mines, MSHA estimates that the number of dust data cards to complete, sign, and send would be 315. MSHA's estimates of the cost in the second year that the final rule is in effect are presented below.

#### Costs

- 315 submissions x \$1.00 = \$315

### Year 3

#### *Underground Mines*

MSHA has not projected any additional costs for underground coal mines completing dust data cards and sending them along with the samples to MSHA in the third year because these mines would be using the CPDM to sample every day.

#### *Surface Mines*

MSHA estimates that the number of dust data cards to complete, sign, and send in the third year would be 195.

#### Costs

- 195 submissions x \$1.00 = \$195

### Notify Representative of the Miners – Existing §§ 75.370(a)(3)(i) and 75.370(f)(1) and Proposed §§ 71.300(a)(1) and 71.300(d)(1)

Existing §§ 75.370(a)(3)(i) and 75.370(f)(1) for underground coal operators and proposed §§ 71.300(a)(1) and 71.300(d)(1) for surface coal operators would require notification to the representative of miners of a plan revision. MSHA estimates that the number of notifications would be equal to the number of occasions corrective actions were submitted, which was determined above. MSHA estimates copying costs of \$0.15 per page.

### Year 1

MSHA estimates there would 504 notifications in the first year for underground coal operators and 76 for surface coal mines. MSHA estimates that the cost to notify the miners' representative and provide a copy if requested in the first year that the rule is in effect would be approximately \$174: \$151 (504 notifications x \$0.30) for underground coal operators and \$23 (76 notifications x \$0.30) for surface coal operators.

### Year 2

MSHA estimates there would be 666 notifications in year 2 for underground coal operators and 59 for surface coal mines. MSHA estimates that the cost to notify the miner representative and provide a copy if requested in the second year that the rule is in effect would be approximately \$218: \$200 (666 notifications x \$0.30) for underground coal operators. MSHA estimates a cost of \$18 (59 notifications x \$0.30) for surface coal operators.

### Year 3

MSHA estimates there would be 269 notifications in year 3 for underground coal operators and 36 for surface coal mines. MSHA estimates that the cost to notify the miner representative and provide a copy if requested in the third year that the rule is in effect would be approximately \$92: \$81 (269 notifications x \$0.30) for underground coal operators and \$11 (36 notifications x \$0.30 hours) for surface coal operators.

### Post Copy of Plan Revision – Existing §§ 75.370(a)(3)(iii), and 75.370(f)(3) and Proposed §§ 71.301(a)(3), and 71.301(d)(3)

Underground coal operators under existing §§ 75.370(a)(3)(iii) and 75.370(f)(3) and surface coal operators under proposed §§ 71.301(a)(3), and 71.301(d)(3) would be required to post a copy of the proposed or revised plan on the mine bulletin board.

### Year 1

MSHA estimates there would be 504 postings in year 1 in underground mines and 76 for surface mines. MSHA estimates that the cost to copy and post in the first year the final rule is effective would be approximately \$174: \$151 (504 notifications x \$0.30) for underground coal operators and \$23 (76 x \$0.30) for surface coal operators.

### Year 2

MSHA estimates there would be 666 postings in year 2 in underground mines, while surface coal mines would have to post 59 proposed or revised plans. MSHA estimates that the cost to copy and post in the second year the final rule is effective would be approximately \$218: \$200 (666 notifications x \$0.30) for underground coal operators. For surface operators MSHA estimates \$18 (59 notifications x \$0.30) for surface coal operators.

### Year 3

MSHA estimates there would be 269 postings in the third year in underground mines, while surface coal mines would have 36 postings. MSHA estimates that the cost to copy and post in the third year the final rule is effective would be approximately \$92: \$81 (269 notifications x \$0.30) for underground coal operators and \$11 (36 notifications x \$0.30) for surface coal operators.

## **E. Proposed §§ 70.210(c), 71.208(c), and 90.210(c) Gravimetric Sampling**

### Transmitting the Samples

Proposed §§ 70.210(c), 71.208(c), and 90.210(c) require each sample to be transmitted to MSHA along with a completed dust data card. MSHA estimates postage at \$1.00. MSHA's estimates of

the burden hours and costs are presented below.

### *Underground Mines*

Due to phasing out of the gravimetric sampler for the monitoring of DOs and Part 90 miners (in 12 months) and ODOs (in 18 months), the estimates for underground coal operators vary by year.

#### Year 1

Due to the increased sampling required under the proposed provisions, in year 1, there would be an increase of 15,298 samples for underground mines and 9,878 samples for surface mines.

#### Costs

- 15,298 samples x \$1.00 = \$15,298

#### Year 2

Due to the shift from the gravimetric sampler to the CPDM for DOs and Part 90 miners at the beginning of the second year, and for ODOs after 18 months, MSHA estimates that there would be an overall decrease of 16,972 samples for underground mines.

#### Cost Savings

- 16,972 samples x \$1.00 = \$16,972

#### Year 3

Due to the shift from the gravimetric sampler to the CPDM (for DOs, Part 90 miners and ODOs) during the second year, MSHA estimates that there would be an overall decrease of 21,492 samples for underground mines.

#### Cost Savings

- 21,492 samples x \$1.00 = \$21,492

### *Annual Estimate for Surface Mines*

#### Costs

- 9,878 samples x \$1.00 = \$9,878

### Cost of Posting the Sample Results

Proposed §§ 70.211(b) and 71.209(b) would require mine operators to post the sample results on the mine bulletin board. Proposed § 90.211(b) would require mine operators to provide Part 90 miners with a copy of the sample results. The cost to copy the sample results is \$0.15. MSHA's estimates of the costs are presented below.

#### *Underground Mines*

Due to the phasing out of the gravimetric sampler for the monitoring of DOs and Part 90 miners (in 12 months) and ODOs (in 18 months), the estimates for underground coal operators vary by year.

#### Year 1

In the first year, there would be no change to the number of times the DO results would have to be posted. The posting of the DA results and providing the Part 90 miner results would decrease by 2 occasions due to the decrease in the sampling frequency from bimonthly to quarterly. Therefore MSHA estimates a decrease in the number of postings in underground mines of 1,810 in the first year. MSHA estimates that the cost savings to underground coal mines in the first year are approximately \$272 (1,810 postings x \$0.15).

#### Year 2

Due to the shift from the gravimetric sampler to the CPDM for DOs and Part 90 miners at the beginning of the second year and for the ODOs after 18 months, MSHA estimates that there would be an overall decrease of 7,464 postings for underground mines. MSHA estimates that the cost savings to underground coal mines in the second year are approximately \$1,120 (7,464 postings x \$0.15).

#### Year 3

Due to the shift from the gravimetric sampler to the CPDM (for DOs, Part 90 miners and ODOs) during the second year, MSHA estimates that there would be an overall decrease of 7,464 postings for underground mines in the third year. MSHA estimates that the cost savings to underground coal mines in the third year are approximately \$1,120 (7,464 postings x \$0.15).

#### *Annual Estimate for Surface Mines*

The posting of the DWP results would increase by twice the number of additional DWPs,

therefore MSHA estimates an annual increase in samples for surface mines of 9,878. MSHA estimates that the annual burden hours and costs to surface mines are approximately \$1,482 (9,878 samples x \$0.15).

## **F. Proposed §§ 71.206, 71.209, 90.206, 90.209 and 90.211 CPDM Costs for Surface Mines**

### Burden to Write and Submit CPDM Plans to MSHA for Approval

Proposed §§ 71.206(a), 90.206(a), and 90.206(b) would require operators who use CPDMs to develop and submit for approval a CPDM Performance Plan (Plan) prior to using them. The proposal specifies the information that would be required to be contained in the Plan and would establish Plan approval procedures.

MSHA assumes that no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that 200 surface mines would have Part 90 miners and that each would need a CPDM plan. MSHA increased this estimate by 10 percent to 220 to account for some plans having to be resubmitted. MSHA estimates that each plan would be 4 pages long with a copying cost of \$0.15 per page and \$1 for postage. MSHA's estimates of the first year cost to write and submit a CPDM plan are presented below.

#### Year 1

#### Costs

- 220 plans x \$1.60 = \$352

### Burden to Post and Provide a Copy of the CPDM Plans to the Part 90 Miners

Proposed § 71.206(a)(3) would require a copy of the CPDM performance plan to be posted and § 90.206(d) would require that the Part 90 miners be given a copy of the CPDM plan. MSHA assumes that no plans would be posted because no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that there are 200 Part 90 miners that would receive a copy of the CPDM plan. MSHA estimates that the first year cost to provide the plan to all Part 90 miners would be approximately \$120 (200 plans x \$0.60).

### Burden to Revise and Submit Revisions to Approved CPDM Plans

MSHA anticipates that revisions to approved CPDM plans would occur from situations that develop as a result of proposed §§ 90.206(b), 90.206(e), 90.209(e)(4) and 90.209(f)(4). MSHA estimates that 25 percent of surface mines with Part 90 miners would make revisions to approved CPDM plans each year which would be an estimated 49 revisions. MSHA's estimates of the annual cost to make and submit revisions to the plan for year the second and third years is \$78 (49 revisions x \$1.60).

### Burden to Provide the Part 90 Miners with a Copy of the Revised CPDM Plans

Proposed § 71.206(c)(3) would require a copy of the CPDM performance plan revisions to be posted and § 90.206(d) would require that the Part 90 miners be given a copy of the CPDM plan revisions. MSHA assumes that no plans would be posted because no surface operator would choose to use the CPDM unless they have Part 90 miners. MSHA estimates that there are 49 Part 90 miners that would receive a copy of the revised CPDM plan and that each plan would be approximately 2 pages long. MSHA estimates that the annual cost to provide the revised plan to Part 90 miners for the second and third years would be approximately \$15 (49 plans x \$0.30).

### Burden to Validate, Certify and Post CPDM Sampling Information

Proposed §§ 71.209(c) and 90.211(c) would require a copy of the CPDM sampling data to be validated, certified and posted on the mine bulletin board at surface mines and be provided to Part 90 miners. MSHA estimates that miners are working 5 days per week for 50 weeks or 250 days a year. MSHA estimates that the annual cost to make a copy of the CPDM sampling data each shift for each Part 90 miner for the second and third years would be approximately \$7,500 (200 Part 90 miners x 250 days x \$0.15).

## **G. Proposed §§ 70.211(c) and 90.211(c) CPDM Sampling Information**

### **Burden to Validate, Certify and Post the Sampling Information for Each CPDM per Shift**

Burden to Validate, Certify and Post CPDM Sampling Information Proposed § 70.211(c) would require the operator to validate, certify and post CPDM sampling information after each shift for underground miners. Proposed § 90.211(c) would require the operator to validate and certify CPDM sampling information after each shift and provide a copy of the information to the Part 90 miner.

#### Year 1

Mines that request and use supplementary controls would be required to sample using a CPDM. Every time a CPDM is used to sample, a new CPDM filter is used and sampling information is generated after the sample is taken. Therefore, the number of sets of CPDM sample information to validate, certify and post, or provide to the Part 90 miner, equals the number of CPDM filters used. MSHA estimates that 49,800 filters would be used to monitor workers using CPDMs associated with supplementary controls during the first year. MSHA estimates that the first year costs would be \$7,470 (49,800 sample information x \$0.15).

#### Year 2

In the second year DO and Part 90 miners would be sampled using the CPDM. MSHA estimates that 568,400 DO and Part 90 samples would be taken and would require sampling information to be generated. MSHA estimates that the annual cost to validate, certify and post the sampling

information for DO and Part 90 samples for the second and third years is \$85,260 (568,400 sample information x \$0.15).

MSHA estimates that 3,847 ODO samples would be taken during each day of sampling. The proposed rule would require each ODO to be sampled for 14 days; therefore MSHA estimates that 53,858 ODO samples would be taken each quarter. ODO sampling begins after 18 months; therefore there would be 2 quarters of ODO sampling in the second year. MSHA estimates that the annual cost, occurring the second year the final rule is effective, to validate, certify and post sampling data for each CPDM after each shift of ODO sampling is approximately \$16,157 (53,858 samples per quarter x 2 quarters x \$0.15).

### Year 3

The third year burden and cost for ODO sampling would be \$32,315 (53,858 samples per quarter x 4 quarters x \$0.15).

## **H. Proposed § 71.207(c) Listing DWPs**

### Estimated Burden for Listing the DWPs

Proposed § 71.207(c) would require mine operators to provide the district manager with a list identifying the specific work positions where DWP samples would be collected. MSHA estimates that it would cost \$1.00 to mail the list to the district manager. In the first year the number of lists would be equal to the number of surface areas at underground mines plus the number of surface mines and facilities.

### *Surface Areas at Underground Mines*

MSHA estimates that there are 56 surface areas at underground mines. MSHA's estimate of the first year cost to underground mines is presented below.

### Year 1

#### Costs

- 56 lists x \$1.00 = \$56

### *Surface Mines and Facilities*

MSHA estimates that there are 1,123 surface mines and facilities. MSHA's estimate of the first

year cost to surface mines is presented below

Year 1

Costs

- 1,123 lists x \$1.00 = \$1,123

Annual Costs

MSHA assumes that each year a new list of DWPs would have to be submitted for about 10 percent of the surface areas at underground mines and 10 percent of surface mines and facilities. This 10 percent includes new mines and facilities submitting a list for the first time and existing mines and facilities revising the list to account for changes in their operations.

*Surface Areas at Underground Mines*

MSHA estimates that 6 underground mines would need to submit a new list (56 x 0.1). MSHA’s estimate of the annual cost to surface mines for the second and third years is presented below.

Costs

- 6 lists x \$1.00 = \$6

*Surface Mines and Facilities*

MSHA estimates that 112 surface mines and facilities would need to submit a new list (1,123 x 0.1). MSHA’s estimate of the annual cost to surface mines for the second and third years is presented below.

Costs

- 112 lists x \$1.00 = \$112

Summary of Costs for Question 13

Details of Cost	Year 1 Cost	Year 2 Cost	Year 3 Cost
<b>Supplementary Control Plans</b>			
Write and submit request for Supplementary Controls	\$145		
<b>CPDM Plans</b>			
Write & Submit CPDM Plans for Approval	\$884		

Revisions to CPDM Plans Submitted for Approval	\$309		
Notify & Provide Copy to Rep. of Miners of CPDM Plans & Revisions Submitted for Approval	\$621		
Post CPDM Plans & Revisions Submitted for Approval	\$621		
Provide Approved Plans to Part 90 Miners	\$79		
Revisions to Approved CPDM Plans		\$507	\$507
Notify & Provide Copy to Rep. of Miners of Revisions to Approved CPDM Plans		\$117	\$117
Post Revisions of Approved CPDM Plans		\$117	\$117
<b>X-Ray &amp; Lung Function Plan</b>			
Develop X-ray & Lung Function Plan	\$2,011		
Revise Plan	\$0	\$400	\$400

<b>Abatement Sampling</b>			
Submit Corrective Actions	\$754	\$943	\$397
Send Dust Data Card	\$2,645	\$315	\$195
Provide Revised Plan to Miners Rep.	\$174	\$218	\$92
Post Plans	\$174	\$218	\$92
<b>Gravimetric Sampling</b>			
Submit Samples (surface)	\$9,878	\$9,878	\$9,878
Post Sample Results (surface)	\$1,482	\$1,482	\$1,482
Submit Samples (UG)	\$15,298	-\$16,972	-\$21,492
Post Sample Results (UG)	-\$272	-\$1,120	-\$1,120

<b>Part 90 Miners at Surface Mines</b>			
Submit CPDM Plan	\$352		
Provide Copy to Part 90 miner	\$120		
Submit Revisions		\$78	\$78
Provide revisions to Part 90 Miner		\$15	\$15
Validate, Certify and Post Sampling Info	\$0	\$7,500	\$7,500
<b>DWP Lists</b>			
Make a List of DWPs	\$1,179	\$118	\$118

CPDM Sampling Information			
Post sample Info for DO & provide to Part 90 miners	\$0	\$85,260	\$85,260
Post sample Info for ODO	\$0	\$16,157	\$32,315
Post sample info for Suppl. Controls	\$7,470	\$0	\$0
Totals	\$43,925	\$105,231	\$115,950

Average annual costs for start-up/capital and maintenance and operations expenses are estimated to be:  $(\$43,925 + \$105,231 + \$115,950)/3 = \$88,369$  (rounded) (Reporting \$66,705; Third party disclosures \$21,664).

**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.**

#### **Costs to MSHA Associated with Gravimetric Samples**

MSHA incurs costs in processing operator samples submitted under 30 CFR parts 70, 71, and 90 when the gravimetric sampler is used. 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. 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.

#### Year 1

Due to the change in sampling in underground mines, MSHA estimates there would be 15,298 additional samples to process in the first year. In addition, there would be an annual increase of 9,878 samples to process for surface mines due to the increase in DWPs, resulting in an overall increase of 25,176 samples to be processed in the first year.

*Sample processing and data transmission to main frame*

MSHA personnel costs	= \$108,005
Equipment and annual maintenance costs (Vacuum pump, robotic weighing system, Analytical balances, and PCs)	= \$ 14,350
Misc. supplies (labels, paper, etc.)	= \$ <u>755</u>
<b>Subtotal</b>	<b>= \$123,110</b>

Year 2

In the second year, due to the use of the CPDM for compliance sampling in underground mines, there would be a reduction in the number of gravimetric samples that need to be processed. MSHA estimates an overall reduction of 7,186 samples. MSHA also assumes that the cost savings would only occur in the respirable dust processing lab and not in the Denver data processing office.

*Sample processing and data transmission to main frame*

MSHA personnel savings	= \$ 30,828
Equipment and annual maintenance savings (Vacuum pump, robotic weighing system, Analytical balances, and PCs)	= \$ 4,096
Misc. supplies savings (labels, paper, etc.)	= \$ <u>216</u>
<b>Subtotal</b>	<b>= \$ 35,140</b>

Year 3

In the third year, due to the use of the CPDM for compliance sampling in underground mines, there would be a reduction in the number of gravimetric samples that need to be processed. MSHA estimates an overall reduction of 11,614 samples. MSHA also assumes that the cost savings would only occur in the respirable dust processing lab and not in the Denver data processing office.

*Sample processing and data transmission to main frame*

MSHA personnel savings	= \$ 49,824
Equipment and annual maintenance savings (Vacuum pump, robotic weighing system, Analytical balances, and PCs)	= \$ 6,619
Misc. supplies savings (labels, paper, etc.)	= \$ <u>348</u>
<b>Subtotal</b>	<b>= \$ 56,791</b>

Annual Costs

*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>
<b>Subtotal</b>	<b>= \$ 304,039</b>

**B. Costs to MSHA Associated with CPDM sampling**

In Denver the transmitted information from the CPDM is processed, which involves checking the information for accuracy and completeness, performing the required calculations of average concentration, and producing various computer-generated reports. These reports, which contain specific information obtained from the CPDM, are then sent electronically to coal mine operators to communicate the disposition of each submitted dust sample and any required follow-up action.

*Data processing and reporting of results to mine operators*

Application Maintenance	= \$ 618,000
Hardware Maintenance	= \$ 104,000
Software Licensing	= \$ <u>15,000</u>
<b>Subtotal</b>	<b>= \$ 737,000</b>

**C. Costs to MSHA Associated with Reviewing CPDM Plans**

Proposed §§ 70.206(a) and 90.206(b) would require operators to create CPDM performance plans and submit them, along with revisions, to MSHA. It would take an Agency health supervisor, earning \$38.35 per hour, 30 minutes (0.50 hour) to review the average plan and plan revision, and an Agency clerk, earning \$15.54 per hour, another 15 minutes (0.25 hour) to process a plan (new or revised). MSHA estimates a total of 644 new plans and 197 revisions for both surface and underground mines in the first year.

Year 1

Hour Burden

841 plans/revisions x 0.5 hr.	= 421 hrs.
841 plans/revisions x 0.25 hr.	= <u>210 hrs.</u>
<b>Subtotal</b>	<b>= 631 hrs.</b>

Cost

421 hrs. x \$38.35	= \$ 16,145
210 hrs. x \$15.54	= \$ <u>3,263</u>
<b>Subtotal</b>	<b>= \$ 19,408</b>

In the second and third year and every year thereafter MSHA assumes that there would be an average number of revisions to CPDM plans that need to be reviewed. MSHA estimates that 155 plans (25%) would need revisions each year (some plans would require multiple revisions).

Year 2 and 3

Hour Burden

155 plans x 0.5 hr.	= 78 hrs.
155 plans x 0.25 hr.	= <u>39 hrs.</u>
<b>Subtotal</b>	<b>= 117 hrs.</b>

Hour Burden Cost

78 hrs. x \$38.35	= \$ 2,991
39 hrs. x \$15.54	= \$ <u>606</u>
<b>Subtotal</b>	<b>= \$ 3,597</b>

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

This information collection request stems from a NPRM that would lowering miners’ exposure to coal mine dust.

**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.**

MSHA does not intend to publish the results of this information collection.

**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.**

There are no forms associated with 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. Collection of Information Employment Statistical Methods**

This collection of information does not employ statistical methods.