



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

[OMB Control No. 1219-0011]

#### Proposed Extension of Information Collection: Respirable Coal Mine Dust Sampling

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed collections of information, in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled “Respirable Coal Mine Dust Sampling”.

**DATES:** All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that comments received after the deadline will not be considered.

- Federal E-Rulemaking Portal: <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2025-0026.
- Mail/Hand Delivery: DOL-MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at [MSHA.information.collections@dol.gov](mailto:MSHA.information.collections@dol.gov) (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. Legal Authority**

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act (PRA) governs paperwork burdens imposed by Federal agencies on the public for using identical questions to collect information from 10 or more persons. Paperwork burden is defined in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, policies and procedures of information collection are established for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

**B. Information Collection**

To fulfill the statutory mandates to promote miners' health and safety, MSHA requires information under the information collection request (ICR) titled "Respirable Coal Mine Dust

Sampling”. The information collection is intended to ascertain coal mine dust levels and to ensure coal miners are not exposed to excessive levels of respirable coal mine dust.

Chronic excessive exposure to respirable coal mine dust causes lung diseases including coal workers’ pneumoconiosis (CWP), emphysema, silicosis, and chronic bronchitis. These diseases, known collectively as “black lung,” are debilitating and can result in severe disability and premature death. While considerable progress has been made in lowering dust levels over time, severe cases of black lung continue to be identified. Information from the federally funded Coal Workers’ Health Surveillance Program administered by the National Institute for Occupational Safety and Health (NIOSH) indicates that black lung remains an occupational health risk among coal miners.

MSHA’s standards in 30 CFR parts 70 and 71 require each operator of underground and surface coal mines to protect miners from exposure to excessive respirable coal mine dust levels for the miners’ health and safety. Under 30 CFR parts 70 and 71, coal mine operators are required to continuously maintain the average concentration of respirable coal mine dust in the atmosphere where miners normally work or travel at or below 1.5 milligrams per cubic meter of air ( $\text{mg}/\text{m}^3$ ). Each coal mine operator is also required to continuously maintain the average concentration of respirable dust in intake airways at underground mines at or below  $0.5 \text{ mg}/\text{m}^3$ .

Additionally, MSHA’s standards in 30 CFR part 90 require that for coal mine employees who have exercised the option described in section 30 CFR 90.3 (hereafter referred to as part 90 miners<sup>1</sup>), the mine operator must place them in a work area of the mine where the average concentration of respirable dust in the mine atmosphere is at or below  $0.5 \text{ mg}/\text{m}^3$ .

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<sup>1</sup> Under 30 CFR 90.3(a), any miner employed at a coal mine who has evidence of the development of pneumoconiosis, based on a chest X-ray or other medical examinations, must be afforded the option to work in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift to which that miner is exposed is continuously maintained at or below the applicable standard. Each of these miners must be notified in writing of eligibility to exercise the option.

To ensure coal mine operators comply with the applicable dust standards specified in 30 CFR parts 70, 71, and 90, coal mine operators are required to sample respirable coal mine dust quarterly and submit these samples to MSHA for analysis.

Underground coal mine operators must take the following samples quarterly with an approved Continuous Personal Dust Monitor (CPDM) unless notified by MSHA that they may use an approved Coal Mine Dust Personal Sampling Unit (CMDPSU) to conduct sampling:

- The Designated Occupations (DO) and Other Designated Occupations (ODO) associated with each Mechanized Mining Unit (MMU), and
- Each Designated Area (DA) location specified in the operator's approved mine ventilation plan.

At surface coal mines and surface work areas of underground coal mines, operators must take quarterly samples of the Designated Work Positions (DWP) with an approved CMDPSU unless notified by MSHA that they may use an approved CPDM to conduct sampling.

Furthermore, at both surface and underground coal mines each part 90 miner may only be sampled with an approved CPDM unless notified by MSHA that they may use an approved CMDPSU.

This information collection request summarizes recordkeeping and reporting burden, and costs associated with respirable coal mine dust sampling, which includes six components:

### **1. Records Related to Sampling**

This component covers the information collection costs related to activities that mine operators are required to conduct and submit to MSHA for sampling, but are not direct costs of sampling, and MSHA's responses to those reports. These recordkeeping activities include mine operators:

- i. Recording lengths of shifts for each MMU, DWP, and part 90 miner;
- ii. Submitting dates and times of when sampling will be conducted for MSHA's review;

- iii. Submitting samples taken for purposes other than fulfilling the sampling requirements;
- iv. Reporting changes in the status of a mine, MMU, DA, DWP, or part 90 miner that affects sampling requirements for MSHA's review;
- v. Recording production at underground coal mines to establish a normal production shift; and
- vi. Submitting work position lists that identify where DWP samples are collected at surface coal mines and surface work areas of underground coal mines.

## **2. CMDPSU Sampling**

This component covers the information collection costs related to CMDPSU sampling, including:

- i. Mine operators collecting, certifying, and submitting CMDPSU samples;
- ii. MSHA processing CMDPSU samples and reporting results to mine operators; and
- iii. Mine operators posting MSHA's CMDPSU sampling results on mine bulletin boards.

## **3. CPDM Sampling**

This component covers the information collection costs related to CPDM sampling, mostly at underground coal mines, including:

- i. Mine operators collecting, certifying, and submitting CPDM samples;
- ii. MSHA processing CPDM samples and reporting results to mine operators; and
- iii. Mine operators posting CPDM Dust Data Cards and MSHA's sampling results on mine bulletin boards.

## **4. Part 90 Miner Sampling**

This component covers the information collection costs related to part 90 miner sampling, including:

- i. Mine operators collecting, certifying, and submitting samples from part 90 miners;

- ii. MSHA processing samples from part 90 miners and reporting results to part 90 miners;
- and
- iii. Mine operators providing part 90 miners with Dust Data Cards and MSHA's sampling results.

### **5. Recording and Certifying Corrective Actions**

This component covers the information collection costs related to corrective actions taken after a sample meets or exceeds the Excessive Concentration Value (ECV), or after the issuance of a citation for violation, including:

- i. Recording and certifying corrective actions taken after a valid sample meets or exceeds the ECV; and
- ii. Recording and certifying corrective actions taken after a citation for violation is issued.

### **6. Abatement Activities after Corrective Actions**

This component covers the information collection costs related to all abatement activities after corrective actions are taken, including:

- i. Mine operators collecting, certifying, and submitting abatement samples;
  - ii. MSHA processing abatement samples and reporting results to mine operators or part 90 miners;
  - iii. Mine operators posting Dust Data Cards and MSHA's abatement sampling results, and providing copies to part 90 miners;
  - iv. Mine operators submitting new or revised mine ventilation plans or dust control plans for MSHA's review;
  - v. Mine operators notifying miners' representatives of new or revised mine ventilation plans or dust control plans and providing copies to miner's representatives and part 90 miners;
- and
- vi. Mine operators posting new or revised mine ventilation plans or dust control plans.

Authorization and the associated rule text as well as detailed requirements associated with respirable coal mine dust sampling are described below.

## **1. Records related to Sampling**

### **i. Recording Lengths of Shifts**

#### *Underground Coal Mines*

Under 30 CFR 70.201(e), records showing the length of each production shift for each MMU must be made and retained for at least 6 months and must be made available for inspection by authorized representatives of the Secretary, the representative of miners, and submitted to the District Manager when requested in writing.

#### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.201(d), records showing the length of each normal work shift for each DWP must be made and retained for at least 6 months and must be made available for inspection by authorized representatives of the Secretary, the representative of miners, and submitted to the District Manager when requested in writing.

#### *Part 90 Miners*

Under 30 CFR 90.201(f), records showing the length of each shift for each part 90 miner must be made and retained for at least 6 months and must be made available for inspection by authorized representatives of the Secretary and submitted to the District Manager when requested in writing.

### **ii. Submitting Sampling Dates and Times**

#### *Underground Coal Mines*

Under 30 CFR 70.201(f), upon request from the District Manager, the operator must submit the date and time any respirable dust sampling will begin. This information must be submitted at least 48 hours prior to the scheduled sampling.

#### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.201(e), upon request from the District Manager, the operator must submit the date and time any respirable dust sampling will begin. This information must be submitted at least 48 hours prior to scheduled sampling.

Under 30 CFR 71.201(f), upon written request by the operator, the District Manager may waive the rain restriction for a normal work shift as defined in 30 CFR 71.2 for a period not to exceed 2 months, if the District Manager determines that: The operator will not have reasonable opportunity to complete the respirable dust sampling without the waiver because of the frequency of rain, and the operator did not have reasonable opportunity to complete the required respirable dust sampling prior to requesting the waiver.

#### *Part 90 Miners*

Under 30 CFR 90.201(g), upon request from the District Manager, the operator must submit the date and time any required respirable dust sampling will begin. This information must be submitted at least 48 hours prior to scheduled sampling.

iii. Submitting Samples Taken for Purposes other than Fulfilling the Sampling Requirements

#### *Underground Coal Mines*

Under 30 CFR 70.210(d), all respirable dust samples collected by the operator will be considered taken to fulfill the sampling requirements of parts 70, 71, or 90, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by 30 CFR parts 70, 71, or 90.

#### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.207(d), all respirable dust samples collected by the operator will be considered taken to fulfill the sampling requirements of parts 70, 71, or 90, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by 30 CFR parts 70, 71, or 90.

#### *Part 90 Miners*

Under 30 CFR 90.208(d), all respirable dust samples collected by the operator will be considered taken to fulfill the sampling requirements of parts 70, 71, or 90, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by 30 CFR parts 70, 71, or 90.

iv. Reporting Status Changes

*Underground Coal Mines*

Under 30 CFR 70.212(a), if there is a change in operational status that affects the respirable dust sampling requirements, the operator must report the change in operational status of the mine, MMU, or DA to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or electronically within 3 working days after the status change has occurred. Operational status is classified as producing, nonproducing, and abandoned.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.209(a), if there is a change in operational status that affects the respirable dust sampling requirements, the operator must report the change in operational status of the mine or DWP to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or electronically within 3 working days after the status change has occurred. Operational status is classified as producing, nonproducing, and abandoned.

*Part 90 Miners*

Under 30 CFR 90.210, if there is a change in the status of a part 90 miner (such as entering a terminated, injured, or ill status, or returning to work), the operator must report the change in the status of the part 90 miner to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes must be reported in writing or by electronic means within 3 working days after the status change has occurred.

v. Recording Production at Underground Coal Mines

### *Underground Coal Mines*

Under 30 CFR 70.201(g), to establish a normal production shift the operator must record the amount of run-of-mine material produced by each MMU during each shift to determine the average production for the most recent 30 production shifts, or for all production shifts if fewer than 30 shifts of production data are available. Production records must be retained for at least 6 months and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

vi. Submitting Work Position Lists of DWP Samples at Surface Coal Mines and Surface Work Areas of Underground Coal Mine

### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.206(d), operators with multiple specified work positions must 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. Specified work positions include bulldozer operators (MSHA occupation code 368) and other work positions designated by the District Manager for sampling where a concentration of respirable dust exceeding 50 percent of the standard in effect at the time the sample is taken, or a concentration of respirable dust exceeding 50 percent of the standard has been measured by one or more MSHA valid representative samples. Each operator must provide the District Manager with a list identifying the specific work positions where DWP samples will be collected for active mines, new mines, and DWPs with a change in operational status that increases or reduces the number of active DWPs.

Under 30 CFR 71.206(m), The District Manager may designate additional work positions for sampling where a concentration of respirable dust exceeding 50 percent of the standard in effect at the time the sample is taken, or a concentration of respirable dust exceeding 50 percent of the standard has been measured by one or more MSHA valid representative samples.

## **2. CMDPSU Sampling**

i. Collecting, Certifying, and Submitting CMDPSU Samples

After conducting quarterly sampling and notating irregular flowrate or other events, all mine operators using CMDPSUs must certify and submit these samples to MSHA.

*Underground Coal Mines*

Under 30 CFR 70.201(b)(2), DAs identified by the operator under section 75.371(t) must be sampled quarterly with an approved CMDPSU, unless the operator notifies the District Manager in writing that only an approved CPDM will be used for all DA sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which CPDMs will be used to collect the DA samples.

Under 30 CFR 70.209(a), if using a CMDPSU, the operator must sample quarterly each DA on consecutive production shifts until five valid representative samples are taken.

Under 30 CFR 70.205(b)(2), if using a CMDPSU, each approved sampling device must be examined each shift by a person certified in sampling during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flow rate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must also be noted on the back of the dust data card.

Under 30 CFR 70.210(c), a person certified in sampling must properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and must include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

Under 30 CFR 70.210(a), if using a CMDPSU the operator must transmit within 24 hours after the end of the sampling shift all samples collected for compliance, including control filters, in containers provided by the manufacturer of the filter cassette to MSHA, or to any other address designated by the District Manager.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.201(a), each operator must take representative samples of the concentration of respirable dust in the active workings of the mine only with an approved CMDPSU. The operator may use an approved CPDM if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which CPDMs will be used to collect the DWP samples.

Under 30 CFR 71.206(a), if using a CMDPSU, each operator must take one valid representative sample from the DWP during each quarterly period.

Under 30 CFR 71.205(b)(2), if using a CMDPSU, each sampling device must be examined each shift by a person certified in sampling during the last hour of operation to assure that it is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events occurring during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must also be noted on the back of the dust data card.

Under 30 CFR 71.206(e), each DWP sample must be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample must be transmitted to MSHA with a notation by the person certified in sampling on the back of the dust data card stating that the sample was not taken on a normal work shift. When a normal work shift is not achieved, the sample for that shift may be voided by MSHA. However, any sample, regardless of whether a

normal work shift was achieved, that exceeds the applicable standard by at least 0.1 mg/m<sup>3</sup> must be used in the determination of the equivalent concentration for that occupation.

Under 30 CFR 71.207(c), a person certified in sampling must properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and must include that person's MIIN. Respirable dust samples with data cards not properly completed may be voided by MSHA.

Under 30 CFR 71.207(a), if using a CMDPSU, the operator must transmit within 24 hours after the end of the sampling shift all required samples, including control filters, in containers provided by the manufacturer of the filter cassette to MSHA.

ii. MSHA Processing CMDPSU Samples and Reporting Results to Mine Operators

*Underground Coal Mines*

Under 30 CFR 70.211(a), MSHA will provide the operator a report on respirable dust samples submitted. The report will include the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code (where applicable), and the reason for voiding any sample.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.208(a), MSHA will provide the operator a report on respirable dust samples submitted. The report will include the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code, and the reason for voiding any sample.

iii. Posting MSHA's CMDPSU Sampling Results

*Underground Coal Mines*

Under 30 CFR 70.211(b), upon receipt, the operator must post MSHA's report with data on respirable dust samples submitted or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.208(b), upon receipt, the operator must post MSHA's report with data on respirable dust samples submitted or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

**3. CPDM Sampling**

i. Collecting, Certifying, and Submitting CPDM Samples

After conducting quarterly sampling and notating irregular flowrate or other events, mine operators must certify and submit CPDM samples to MSHA.

*Underground Coal Mines*

Under 30 CFR 70.201(a), DOs in each MMU must be sampled quarterly with an approved CPDM and an approved CMDPSU cannot be used, unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

Under 30 CFR 70.201(b)(1), DAs associated with an MMU must be redesignated as ODO. ODOs must be sampled quarterly with an approved CPDM and an approved CMDPSU must not be used, unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

Under 70.208(a), the operator must sample each calendar quarter: the DO in each MMU and each ODO in each MMU on consecutive normal production shifts until 15 valid representative samples are taken.

Under 30 CFR 70.210(c), a person certified in sampling must properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually

performed the required examinations during the sampling shift and must include that person's MIIN. Respirable dust samples with data cards not properly completed may be voided by MSHA.

Under 30 CFR 70.210(f)(1), if using a CPDM, the person certified in sampling must validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling. Under 30 CFR 70.210(f)(2), the person certified in sampling must not tamper with the CPDM or its components in any way before, during, or after it is used to sample for compliance or alter any sample data files. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.201(a), each operator must take representative samples of the concentration of respirable dust in the active workings of the mine only with an approved CMDPSU. The operator may use an approved CPDM if the operator notifies the District Manager in writing that only an approved CPDM will be used for all DWP sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which CPDMs will be used to collect the DWP samples.

Under 30 CFR 71.207(c), a person certified in sampling must properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and must include that person's MSHA MIIN. Respirable dust samples with data cards not properly completed may be voided by MSHA.

Under 30 CFR 71.207(f), if using a CPDM, the person certified in sampling must (1) validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each DWP; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to sample for compliance, or alter any sample data files. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

ii. MSHA Processing CPDM Samples and Reporting Results to Mine Operators

*Underground Coal Mines*

Under 30 CFR 70.211(a), MSHA will provide the operator a report on respirable dust samples submitted physically or transmitted electronically if using a CPDM. The report will include the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code (where applicable), and the reason for voiding any sample.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.208(a), MSHA will provide the operator a report on respirable dust samples submitted physically or transmitted electronically if using a CPDM. The report will include the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code, and the reason for voiding any sample.

iii. Posting CPDM Dust Data Cards and MSHA's Sampling Results

*Underground Coal Mines*

Under 30 CFR 70.211(b), upon receipt of a MSHA's report, the operator must post the report with data on respirable dust samples submitted physically or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

Under 30 CFR 70.211(c), if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a

paper record (Dust Data Card) of the sample run. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust and the shift length.

Under 30 CFR 70.211(d), the information must remain posted until the receipt of the MSHA report covering the respirable dust samples.

Under 30 CFR 70.201(j), anthracite mines using the full box, open breast, or slant breast mining method may use either a CPDM or a CPMDPSU to conduct the required sampling. The mine operator must notify the District Manager in writing of its decision to not use a CPDM.

#### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.208(b), upon receipt of a MSHA's report, the operator must post the report with data on respirable dust samples submitted physically or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

Under 30 CFR 71.208(c), if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust and the shift length.

Under 30 CFR 71.208(d), the information must remain posted until the receipt of the MSHA report covering the respirable dust samples.

#### **4. Part 90 Miner CPDM Sampling**

##### **i. Collecting, Certifying, and Submitting Samples from Part 90 Miners**

Under 30 CFR 90.201(a), part 90 miners must be sampled only with an approved CPDM, and an approved CMDPSU cannot be used unless notified by the Secretary to continue to use an approved CMDPSU to conduct quarterly sampling.

Under 30 CFR 90.207(a), each operator must take five valid representative samples every calendar quarter from the environment of each part 90 miner while performing normal work duties. Part 90 miner samples must be collected on consecutive workdays.

Under 30 CFR 90.205(b)(2), if using a CMDPSU, each approved sampling device must be examined each shift, by a person certified in sampling during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample must be transmitted to MSHA with a notation by the certified person on the back of the dust data card stating that the proper flowrate was not maintained. Other events that occurred during the collection of respirable dust samples that may affect the validity of the sample, such as dropping of the sampling head assembly onto the mine floor, must be noted on the back of the dust data card.

Under 30 CFR 90.208(c), a person certified in sampling must properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card must have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card must be signed by the certified person who actually performed the required examinations during the sampling shift and must include that person's MIIN. Respirable dust samples with data cards not properly completed may be voided by MSHA.

Under 30 CFR 90.208(a), if using a CMDPSU, the operator must transmit within 24 hours after the end of the sampling shift all samples collected for compliance, including control filters, in containers provided by the manufacturer of the filter cassette, to MSHA or to any other address designated by the District Manager.

Under 30 CFR 90.208(f), if using a CPDM, the person certified in sampling must validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each part 90 miner. The person certified

in sampling must not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements, or alter any data files. All CPDM data files transmitted electronically to MSHA must be maintained by the operator for at least 12 months.

Under 30 CFR 90.201(j), anthracite mines using the full box, open breast, or slant breast mining method may use either a CPDM or a CMDPSU to conduct the required sampling. The mine operator must notify the District Manager in writing of its decision to not use a CPDM.

ii. MSHA Processing Samples from Part 90 Miners and Reporting Results to Part 90 Miners

Under 30 CFR 90.209(a), MSHA will provide the operator a report on respirable dust samples submitted physically or transmitted electronically, if using a CPDM, to the part 90 miner.

iii. Providing Part 90 Miners with Dust Data Cards and MSHA's Sampling Results

Under 30 CFR 90.209(b), upon receipt of MSHA's report on respirable dust samples, the operator must provide a copy of the report to the part 90 miner. The operator must not post the original or a copy of this report on the mine bulletin board.

Under 30 CFR 90.209(c), if using a CPDM, the person certified in sampling must print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust, the shift length, and the part 90 miner's MIIN.

Under 30 CFR 90.209(d), the operator must not post data on respirable dust samples for part 90 miners on the mine bulletin board.

## **5. Recording and Certifying Corrective Actions**

i. Recording and Certifying Corrective Actions After a Valid Sample Meets or Exceeds the ECV

*Underground Coal Mines*

Under 30 CFR 70.208(e)(2), when a valid representative sample meets or exceeds the ECV in Table 70-1 (Excessive Concentration Values (ECV) Based on Single, Full-Shift CMDPSU/CPDM Concentration Measurements) that corresponds to the applicable standard and particular sampling device used, the operator must immediately take corrective action to lower the concentration of respirable dust to at or below the applicable dust standard.

Under 30 CFR 70.208(e)(3), the operator must make a record of the corrective action taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Under 30 CFR 70.209(c)(2), when a valid representative sample meets or exceeds the ECV in Table 70-1 that corresponds to the applicable standard and particular sampling device used, the operator must immediately take corrective action to lower the concentration of respirable dust to at or below the applicable respirable dust standard.

Under 30 CFR 70.209(c)(3), the operator must make a record of the corrective action taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.206(h)(2), when a valid representative sample meets or exceeds the ECV in Table 71-1 (Excessive Concentration Values (ECV) Based on Single, Full-Shift

CMDPSU/CPDM Concentration Measurements) that corresponds to the applicable standard and particular sampling device used, the operator must immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard.

Under 30 CFR 71.206(h)(3), the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

#### *Part 90 Miners*

Under 30 CFR 90.207(c)(2), when a valid representative sample meets or exceeds the ECV in Table 90-1 (Excessive Concentration Values (ECV) Based on Single, Full-Shift CMDPSU/CPDM Concentration Measurements) that corresponds to the applicable standard and particular sampling device used, the operator must immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard.

Under 30 CFR 90.207(c)(3), the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the part 90 miner.

#### ii. Recording and Certifying Corrective Actions After a Citation for Violation is Issued

##### *Underground Coal Mines*

Under 30 CFR 70.208(h)(2), upon the issuance of a citation for violation of the applicable standard for MMUs, the operator must immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard.

Under 30 CFR 70.208(h)(3), the operator must make a record of the corrective action taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

Under 30 CFR 70.209(f)(2), upon issuance of a citation for a violation of the applicable standards for DAs, the operator must immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard.

Under 30 CFR 70.209(f)(3), the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.206(k)(2), upon issuance of a citation for violation of the applicable standard for DWPs, the operator must immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard.

Under 30 CFR 71.206(k)(3), the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than

the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the representative of miners.

#### *Part 90 Miners*

Under 30 CFR 90.207(f)(2), upon issuance of a citation for a violation of the applicable standard for part 90 miners, the operator must immediately take corrective action to lower the concentration of respirable dust to at or below the applicable standard.

Under 30 CFR 90.207(f)(3), the operator must make a record of the corrective actions taken. The record must be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman or equivalent official's next regularly scheduled working shift. The record must be made in a secure book or electronically in a computer system, both of which must be secure and not susceptible to alteration. Such records must be retained at a surface location at the mine for at least 1 year and must be made available for inspection by authorized representatives of the Secretary and the part 90 miner.

### **6. Abatement Activities after Corrective Actions**

#### **i. Collecting, Certifying, and Submitting Abatement Samples**

##### *Underground Coal Mines*

Under 30 CFR 70.208(h)(4), after the issuance of a citation for violation of the applicable standard for MMUs and taking correct actions, the operator must begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected occupation in the MMU on consecutive normal production shifts until five valid representative samples are taken.

Under 30 CFR 70.208(i)(1), a citation for violation of the applicable standard will be terminated by MSHA when each of the five valid representative samples is at or below the

applicable standard, and the operator has submitted a revised mine ventilation plan approved by MSHA.

Under 30 CFR 70.209(f)(4), after the issuance of a citation for violation of the applicable standard for DAs and taking correct actions, the operator must begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected DA on consecutive normal production shifts until five valid representative samples are taken.

Under 30 CFR 70.209(g)(1), a citation for violation of the applicable standard will be terminated by MSHA when each of the five valid representative samples is at or below the applicable standard, and the operator has submitted a revised mine ventilation plan approved by MSHA.

#### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.206(k)(4), after the issuance of a citation for violation of the standard for DWPs and taking corrective actions, the operator must begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected DWP on consecutive normal work shifts until five valid representative samples are taken.

Under 30 CFR 71.206(l), a citation for violation of the applicable standard will be terminated by MSHA when the equivalent concentration of each of the five valid representative samples is at or below the standard.

Under 30 CFR 71.206(g), upon notification from MSHA that any valid representative sample taken from a DWP exceeds the applicable standard, the operator must, within 15 calendar days of notification, sample that DWP each normal work shift until five valid representative samples are taken. The operator must begin sampling on the first normal work shift following receipt of notification.

#### *Part 90 Miners*

Under 30 CFR 90.207(f)(2)(i), if the corrective action involves reducing the respirable dust levels in the work position of the part 90 miner identified in the citation, the operator must

implement the proposed corrective actions and begin sampling the affected miner within 8 calendar days after the date the citation is issued, until five valid representative samples are taken.

Under 30 CFR 90.207(g), a citation for a violation of the applicable standard must be terminated by MSHA when the equivalent concentration of each of the five valid representative samples is at or below the applicable standard.

ii. MSHA Processing Abatement Samples and Reporting Results to Mine Operators or Part 90 Miners

Under 30 CFR 70.211(a), MSHA will provide the operator a report on respirable dust samples taken from underground locations in coal mines and submitted. The report includes the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code (where applicable), and the reason for voiding any sample.

Under 30 CFR 71.208(a), MSHA will provide the operator a report on respirable dust samples taken from surface locations in coal mines and submitted. The report includes the concentration of respirable dust, the average equivalent concentration of respirable dust for all valid samples, the occupation code (where applicable), and the reason for voiding any sample.

Under 30 CFR 90.209(a), MSHA will provide the operator a report on respirable dust samples taken from part 90 miners and submitted or transmitted electronically, if using a CPDM.

iii. Posting Dust Data Cards and MSHA's Abatement Sampling Results and Providing Copies to Part 90 Miners

*Underground Coal Mines*

Under 30 CFR 70.211(b), upon receipt of MSHA's report, the operator must post the report with data on respirable dust samples submitted physically or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

Under 30 CFR 70.211(c), if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a

paper record (Dust Data Card) of the sample run. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust and the shift length.

Under 30 CFR 70.211(d), the information must remain posted until the receipt of the MSHA report covering these respirable dust samples.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.208(b), upon receipt of MSHA's report, the operator must post the report with data on respirable dust samples submitted physically or transmitted electronically if using a CPDM for at least 31 days on the mine bulletin board.

Under 30 CFR 71.208(c), if using a CPDM, the person certified in sampling must, within 12 hours after the end of each sampling shift, print, sign, and post on the mine bulletin board a paper record (Dust Data Card) of each sample run. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust and the shift length.

Under 30 CFR 71.208(d), the information must remain posted until the receipt of the MSHA report covering these respirable dust samples.

*Part 90 Miners*

Under 30 CFR 90.209(b), upon receipt of MSHA's report on respirable dust samples, the operator must provide a copy of the report to the part 90 miner. The operator must not post the original or a copy of this report on the mine bulletin board.

Under 30 CFR 90.209(c), if using a CPDM, the person certified in sampling must print, sign, and provide to each part 90 miner, a paper record (Dust Data Card) of the sample run within one hour after the start of the part 90 miner's next work shift. This hard-copy record must include the data entered when the sample run was first programmed and key information such as the concentration of respirable dust, the shift length, and the part 90 miner's MIIN.

Under 30 CFR 90.209(d), the operator must not post data on respirable dust samples for part 90 miners on the mine bulletin board.

iv. Submitting New or Revised Mine Ventilation Plans or Dust Control Plans for MSHA Review

*Underground Coal Mines*

Under 30 CFR 70.208(i)(2), in order to terminate a citation for violation of the applicable standard for MMUs by MSHA, the operator must submit to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the MMU in the citation and the changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

Under 30 CFR 70.209(g)(2), in order to terminate a citation for violation of the applicable standard for DAs by MSHA, the operator must submit to the District Manager revised dust control parameters as part of the mine ventilation plan applicable to the DA in the citation, and the changes have been approved by the District Manager. The revised parameters must reflect the control measures used by the operator to abate the violation.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.300(a), within 15 calendar days after the termination date of a citation for violation of the applicable standard for DWPs, the operator must submit to the District Manager for approval a written respirable dust control plan applicable to the DWP identified in the citation. The respirable dust control plan and its revisions must be suitable to the conditions and the mining system of the coal mine and must be adequate to continuously maintain respirable dust to at or below the applicable standard at the DWP identified in the citation.

*Part 90 Miners*

Under 30 CFR 90.300(a), if an operator abates a violation of the applicable standard by reducing the respirable dust level in the position of the part 90 miner, the operator must 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 within 15 calendar days after the citation is terminated. The respirable dust control plan and its revisions must be suitable to the conditions and the mining system of the coal mine and must be adequate to continuously maintain respirable dust to at or below the applicable standard for that part 90 miner.

v. Notifying Miners' Representatives of New or Revised Mine Ventilation Plans or Dust Control Plans and Providing Copies

*Underground Coal Mines*

Under 30 CFR 75.370(a)(3)(i), the mine operator must notify the representative of miners at least 5 days prior to the submission to MSHA of a mine ventilation plan and any revision to a mine ventilation plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification. In the event of a situation requiring immediate action on a revision of the mine ventilation plan, notification of the revision must be given, and if requested, a copy of the revision must be provided, to the representative of miners by the operator at the time of submittal.

Under 30 CFR 75.370(a)(3)(ii), a copy of the proposed ventilation plan, and a copy of any proposed revision, submitted to MSHA for approval must be made available for inspection by the representative of miners.

Under 30 CFR 75.370(f)(1), the approved ventilation plans and any revisions must be provided upon request to the representative of miners by the operator following notification of approval from MSHA.

Under 30 CFR 75.370(f)(2), the approved ventilation plans and any revisions must be made available for inspection by the representative of miners.

*Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.300(a)(1), the mine operator must notify the representative of miners at least 5 days prior to submission to MSHA of a respirable dust control plan and any revision to a

dust control plan. If requested, the mine operator must provide a copy to the representative of miners at the time of notification.

Under 30 CFR 71.300(a)(2), a copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted to MSHA for approval must be made available for inspection by the representative of miners.

Under 30 CFR 71.301(d)(1), the approved respirable dust control plan and any revisions must be provided upon request to the representative of miners by the operator following notification of approval from MSHA.

Under 30 CFR 71.301(d)(2), the approved respirable dust control plan and any revisions must be made available for inspection by the representative of miners.

#### *Part 90 Miners*

Under 30 CFR 90.301(d), the operator must provide a copy of the current respirable dust control plan to the part 90 miner. The operator must not post the original or a copy of the plan on the mine bulletin board.

#### vi. Posting New or Revised Mine Ventilation Plans or Dust Control Plans

##### *Underground Coal Mines*

Under 30 CFR 75.370(a)(3)(iii), a copy of the proposed ventilation plan, and a copy of any proposed revision, submitted to MSHA for approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn or denied.

Under 30 CFR 75.370(f)(3), the approved ventilation plan and any revisions must be posted on the mine bulletin board within 1 working day following notification of approval from MSHA. The approved plan and revisions must remain posted on the bulletin board for the period that they are in effect.

##### *Surface Coal Mines and Surface Work Areas of Underground Coal Mines*

Under 30 CFR 71.300(a)(3), a copy of the proposed respirable dust control plan, and a copy of any proposed revision, submitted to MSHA for approval must be posted on the mine bulletin board at the time of submittal. The proposed plan or proposed revision must remain posted until it is approved, withdrawn, or denied.

Under 30 CFR 71.301(d)(3), the approved respirable dust control plan and any revisions must be posted on the mine bulletin board within 1 working day following notification of approval from MSHA and must remain posted for the period that the plan is in effect.

#### vii. MSHA Providing Mine Operators with Copies of Comments on Plans

Under 30 CFR 71.300(a)(4), following receipt of the proposed respirable dust control plan or proposed revision, the representative of miners may submit timely comments to the District Manager, in writing, for consideration during the review process. Upon request, a copy of these comments must be provided to the operator by the District Manager.

Under 30 CFR 75.370(b), following receipt of the proposed mine ventilation plan or proposed revision, the representative of miners may submit timely comments to the District Manager, in writing, for consideration during the review process. A copy of these comments must also be provided to the operator by the district manager upon request.

## **II. Desired Focus of Comments**

MSHA is soliciting comments concerning the proposed information collection titled “Respirable Coal Mine Dust Sampling”. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <https://www.regulations.gov>.

MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL-MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the FOR FURTHER INFORMATION CONTACT section of this notice.

### **III. Current Actions**

This information collection request concerns provisions for Respirable Coal Mine Dust Sampling. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

*Type of Review:* Extension, without change, of a currently approved collection

*Agency:* Mine Safety and Health Administration

*OMB Number:* 1219-0011

*Affected Public:* Business or other for-profit

*Number of Annual Respondents:* 701

*Frequency:* On occasion

*Number of Annual Responses:* 989,403

*Annual Time Burden: 69,765 hours*

*Annual Other Burden Costs: \$29,813*

*MSHA Form: Mine Operator Dust Data Card*

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at <https://www.reginfo.gov>.

**Song-ae Aromie Noe,**

*Certifying Officer,*

*Mine Safety and Health Administration.*

[FR Doc. 2025-09592 Filed: 5/28/2025 8:45 am; Publication Date: 5/29/2025]