

Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

This rule does not create any new, or affect any existing, collections, and therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

#### List of Subjects

##### *20 CFR Part 404*

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

##### *20 CFR Part 416*

Administrative practice and procedure; Aged, Blind, Disability benefits, Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: October 2, 2009.

**Michael J. Astrue,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart U of part 404 and subpart F of part 416 of chapter III of title 20 Code of Federal Regulations as set forth below:

#### **PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )**

##### **Subpart U—[Amended]**

1. The authority citation for subpart U of part 404 is revised to read as follows:

**Authority:** Secs. 205(a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), (j), and (k), and 902(a)(5)).

2. Amend § 404.2060 by revising the first sentence to read as follows:

##### **§ 404.2060 Transfer of accumulated benefit payments.**

A representative payee who has conserved or invested benefit payments shall transfer these funds and the interest earned from the invested funds to either a successor payee, to the beneficiary, or to us, as we will specify.  
\* \* \*

#### **PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

##### **Subpart F—[Amended]**

3. The authority citation for subpart F of part 416 is revised to read as follows:

**Authority:** Secs. 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(a)(2) and (d)(1)).

4. Amend § 416.660 by revising the first sentence to read as follows:

##### **§ 416.660 Transfer of accumulated benefit payments.**

A representative payee who has conserved or invested benefit payments shall transfer these funds, and the interest earned from the invested funds, to either a successor payee, to the beneficiary, or to us, as we will specify.  
\* \* \*

[FR Doc. E9-24648 Filed 10-13-09; 8:45 am]

**BILLING CODE 4191-02-P**

#### **DEPARTMENT OF THE TREASURY**

##### **Internal Revenue Service**

##### **26 CFR Part 301**

**[REG-116614-08]**

**RIN 1545-BH90**

##### **Disregarded Entities and Excise Taxes; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking by cross-reference to temporary regulations (REG-116614-08) that was published in the **Federal Register** on Monday, September 14, 2009, clarifying that a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose, but regarded as a separate entity for certain excise tax purposes, is treated as a corporation for tax administration purposes related to those excise taxes.

**FOR FURTHER INFORMATION CONTACT:** Michael H. Beker, (202) 622-3070 (not a toll-free number).

##### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The correction notice that is the subject of this document is under section 7701 of the Internal Revenue Code.

##### **Need for Correction**

As published on Monday, September 14, 2009 (74 FR 46957), the notice of proposed rulemaking by cross-reference to temporary regulations (REG-116614-08) contains errors that may prove to be misleading and are in need of clarification.

##### **Correction of Publication**

Accordingly, the publication of the notice of proposed rulemaking by cross-reference to temporary regulations (REG-116614-08), which was the subject of FR Doc. E9-21986, is corrected as follows:

1. On page 46958, column 2, instructional paragraph 2, item number 4, the language “4. Revising paragraphs (e)(2), (e)(5) and (e)(6).” is corrected to read “4. Revising paragraph (e)(2).”

2. On page 46958, column 2, new item number 5 is added to read “5. Adding two sentences at the end of paragraph (e)(5).”

3. On page 46958, column 2, instructional paragraph 2, new item number 6 is added to read “6. Adding one sentence at the end of paragraph (e)(6).”

##### **§ 301.7701-2 [Corrected]**

4. On page 46958, column 2, in § 301.7701-2, paragraph (e)(5), first line, the language “[The text of this proposed]” is corrected to read “\* \* \* [The text of this proposed]”.

5. On page 46958, column 2, in § 301.7701-2, paragraph (e)(6), first line, the language “[The text of this proposed]” is corrected to read “\* \* \* [The text of this proposed]”.

**Diane O. Williams,**

*Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E9-24655 Filed 10-13-09; 8:45 am]

**BILLING CODE 4830-01-P**

#### **DEPARTMENT OF LABOR**

##### **Mine Safety and Health Administration**

##### **30 CFR Parts 70, 71 and 90**

**RIN 1219-AB48**

##### **Respirable Coal Mine Dust; Continuous Personal Dust Monitor (CPDM)**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Request for information.

**SUMMARY:** This document requests information related to the use of the

Continuous Personal Dust Monitor (CPDM) as a sampling device to measure a miner's exposure to respirable coal mine dust.

In September 2006, the National Institute for Occupational Safety and Health (NIOSH) published the results of a collaborative study designed to verify the performance of the pre-commercial CPDM in laboratory and underground coal mine environments. According to the NIOSH Report of Investigations 9669, "Laboratory and Field Performance of a Continuously Measuring Personal Respirable Dust Monitor," the CPDM is a new monitoring device that is accurate, precise, and durable in providing continuous exposure information previously not available to coal miners and coal mine operators.

MSHA is requesting information regarding whether the use of the CPDM would lead to more effective monitoring and control miners' exposure to respirable coal mine dust during a working shift. Responses to this request for information will assist MSHA in determining: How to best use the monitoring capability of the CPDM to improve miner health protection from disabling occupational lung disease; the feasibility of more effective exposure monitoring given the availability of CPDM; and what regulatory and non-regulatory actions to consider regarding the use of the CPDM in coal mines.

**DATES:** All comments must be received by midnight Eastern Standard Time on December 14, 2009.

**ADDRESSES:** Comments must be clearly identified with "RIN 1219-AB48" and may be sent by any of the following methods:

(1) *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

(2) *Electronic mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include "RIN 1219-AB48" in the subject line of the message.

(3) *Facsimile:* 202-693-9441. Include "RIN 1219-AB48" in the subject line of the message.

(4) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939.

(5) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

Comments can be accessed electronically at <http://www.msha.gov> under the *Rules and Regs* link. MSHA will post all comments on the Internet

without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a list that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe, go to <http://www.msha.gov/subscriptions/subscribe.aspx>.

**FOR FURTHER INFORMATION CONTACT:**

Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939. Ms. Silvey can be reached at [Silvey.Patricia@dol.gov](mailto:Silvey.Patricia@dol.gov) (Internet E-mail), (202) 693-9440 (voice), or (202) 693-9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Continuous Personal Dust Monitor (CPDM)*

For over two decades, researchers and MSHA have attempted to identify technology that would provide real-time information on respirable coal mine dust (respirable dust) levels to which miners are exposed. Such information would enable a mine operator to be more proactive in determining when to take corrective measures to avoid miners' exposure to excessive levels of respirable dust. The CPDM provides a direct measurement of respirable dust in the mine atmosphere on a real-time basis, unlike the existing sampling system used since 1970. As such, MSHA believes that corrective action based on CPDM monitoring results can be part of a comprehensive health protection strategy that reduces miners' exposure to excessive levels of respirable dust; thereby reducing occupational lung disease among coal miners, including coal workers' pneumoconiosis (CWP) or "black lung" disease.

*B. Description of the Continuous Personal Dust Monitor (CPDM)*

The CPDM is a respirable dust sampler and gravimetric analysis device that is incorporated into the miner's cap lamp battery case as a single package located on the belt. The device represents the first major advance in dust sampling technology in more than 30 years. The new cap lamp battery case contains all the components, including two separate batteries, to enable the dust monitor and cap lamp to operate independently. Air from a miner's work environment enters the sampling device through an inlet located adjacent to the

lens of the cap light on the miner's hard hat and flows via a flexible tube that runs parallel to the lamp cord to the belt-mounted device. Before entering the CPDM, the air stream is first coursed through a Higgins-Dewell (HD) cyclone to separate the coarse or non-respirable dust, so that only airborne particles that could penetrate to the lung will enter the device. From there, the air stream flows through: (1) A heater to remove excess moisture; (2) a 14-mm diameter glass fiber filter where respirable-size dust particles are collected; (3) a flow rate sensor; and, (4) a computer-controlled pump.

An exchangeable filter cartridge is mounted on an inertial mass sensor called the Tapered Element Oscillating Microbalance (TEOM® system). The TEOM system is made of a hollow tapered tube called the tapered element, which is clamped at the base and free to oscillate at its narrow or free end on which the collection filter is mounted. Electronics positioned around the sensor cause the tube to oscillate at its natural frequency. When dust particles are deposited on the collection filter, the mass of the collection filter increases, causing the natural oscillating frequency of the tapered element to decrease. Because of the direct relationship between mass and oscillating frequency, the amount of respirable dust deposited on the filter can be determined by measuring the frequency change. The concentration of respirable dust in the mine atmosphere is then determined by the on-board computer by dividing the mass of dust collected by the volume of mine air that passed through the system during the time period sampled.

To accommodate shifts greater than 8 hours in duration, the CPDM is designed to operate for 12 hours. The display on the device continuously shows: (1) The respirable dust concentration calculated at distinct 30-minute intervals; (2) the average respirable dust exposure from the beginning of the shift; and, (3) the percent of exposure limit. Through the display, both the mine operator and miners wearing the device have the ability for the first time to gauge respirable dust exposures, as well as the effectiveness of corrective actions taken by authorized personnel to reduce a miner's exposure. The CPDM is capable of being used in a shift mode, in which the device is programmed by authorized personnel to operate for specific shift lengths (e.g., 8, 10, 12 hours) to monitor a miner's exposure, or in an engineering mode for shorter-term evaluations. If the monitor is operated in an engineering mode, authorized personnel would program sampling periods within the

shift to record respirable dust levels during specific mining cycles or at specific dust-generation sources in the mine. The display has various screens that show the: (1) Time of day; (2) elapsed time since beginning of the shift; (3) total amount of respirable dust accumulated on the filter since the start of sampling which is stored in an internal memory for analysis; (4) dust concentrations; (5) operational parameters including flow rate, filter pressure, temperature, *etc.*; and, (6) a bar graph of the average respirable dust concentration during the entire sampling period. Each bar represents the average concentration value for each previous 30-minute interval, with a new bar added to the graph every 30 minutes. This, along with other information, is stored in the CPDM and can be accessed with a personal computer at the end of the shift for analysis and recordkeeping.

The CPDM is neither capable of directly measuring the quartz content of the collected sample; nor is the exchangeable filter cartridge, as it is currently designed, suitable to permit the deposited dust to be analyzed for quartz. Therefore, regardless of the regulatory or non-regulatory actions considered regarding the use of the CPDM to monitor respirable coal mine dust, the sampling equipment approved under existing standards will continue to be used to collect separate respirable dust samples for quartz analysis.

### C. Collaborative Study Results

All phases of the NIOSH collaborative study have been successfully completed. These included: (1) Planned 10 underground in-mine tests; (2) subsequent extended testing undertaken by and at the request of several mine operators at four additional underground coal mines; (3) special area sampling at 180 randomly selected mechanized mining units to determine the equivalency of the pre-commercial CPDM to the Mining Research Establishment (MRE) instrument and the International Standards Organization (ISO) definition of respirable dust; and, (4) laboratory pre- and post-accuracy testing.

On August 14, 2006, NIOSH posted the results of the collaborative study on its Web site, concluding that the new monitoring device was found to be accurate, precise, and durable under harsh mining conditions in providing real-time continuous information on respirable dust exposure. These findings and other observations are explained in more detail in the NIOSH Report of Investigations 9669, "*Laboratory and Field Performance of a Continuously*

*Measuring Personal Respirable Dust Monitor*," DHHS (NIOSH) Publication No. 2006-145. The report, which was published in September 2006, is posted on NIOSH's Web site at <http://www.cdc.gov/niosh/mining/pubs/pdfs/ri9669.pdf>.

## II. Rulemaking History

On July 7, 2000, the Secretary of Labor and the Secretary of Health and Human Services jointly published the proposed rule, "Determination of Concentration of Respirable Coal Mine Dust," (Single Sample; 65 FR 42068), which would enable MSHA to more effectively identify and address overexposures to respirable coal mine dust. Under the proposal, MSHA would determine miners' exposure to coal mine dust based on the results of a single-shift sample, rather than on the average of multiple samples, as has been the Agency's longstanding practice.

On July 7, 2000, MSHA also published a proposed rule on "Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust" (Plan Verification; 65 FR 42122). Under the proposal, each operator of an underground coal mine would be required to verify and periodically monitor, through sampling, the effectiveness of dust controls for each mechanized mining unit specified in the mine's approved ventilation plan.

On March 6, 2003, in response to comments, MSHA repropoed both the Plan Verification rule (68 FR 10784), and Single Sample rule (68 FR 10940). The proposed rule on Plan Verification would integrate the use of CPDMs, with real-time monitoring, as part of an effective dust control program once the technology was verified as reliable under mining conditions and commercially available.

Public hearings on the Single Sample and Plan Verification proposed rules were held in May 2003, and the comment period, originally scheduled to close on June 4, 2003, was extended until July 3, 2003. On July 3, 2003, MSHA extended the comment period on the Plan Verification proposal until further notice (68 FR 39881). In addition, on August 12, 2003, MSHA and NIOSH reopened the rulemaking record and extended the comment period on the Single Sample proposal until further notice (68 FR 47886).

In August 2003, MSHA convened a meeting with representatives from NIOSH, the developer of the CPDM, and stakeholders representing the mining industry and labor. The purpose of the meeting was to solicit the parties' participation in a collaborative study on

performance verification testing of 25 new pre-commercial CPDMs purchased by MSHA and NIOSH. The parties agreed to participate in this study to evaluate all aspects of the long-term performance of the CPDM in a variety of underground coal mine environments.

Existing 30 CFR part 74, specifies requirements for approval of coal mine dust personal sampler units designed to determine the concentrations of respirable dust in coal mine atmospheres; procedures for applying such approval; test procedures; and labeling. On January 16, 2009, MSHA published a proposed rule in the **Federal Register** on Coal Mine Dust Personal Monitors (74 FR 2915). The proposed rule would revise requirements that MSHA and NIOSH apply to approve sampling devices that monitor miner exposure to respirable dust. The proposal would establish criteria for approval of the CPDM, which would be worn by the miner and would report exposure to dust levels continuously during the shift. In addition, the proposal would update application requirements for the existing "coal mine dust personal sampler unit" to reflect improvements in this sampler over the past 15 years. This document requests information regarding potential CPDM use for more effective monitoring and control of respirable coal mine dust.

## III. Key Issues on Which Comment Is Requested

A number of important issues must be addressed by MSHA to develop an effective and comprehensive monitoring strategy incorporating continuous direct-reading exposure measurement technology for use in the Nation's coal mines. As part of this strategy, the Agency is seeking comments from the mining community on how best to use the unique monitoring capabilities offered by the CPDM in its overall strategy to further improve miner health protection from disabling occupational lung disease.

MSHA is especially interested in comments addressing the issues below; however, comments on any relevant issues are welcome. Comments should be specific and include alternatives, rationale, health benefits to miners (*e.g.*, lives saved, illnesses averted), technological and economic feasibility, impact on small mines, and supporting data.

### A. CPDM Application Strategies

The existing system of monitoring concentrations of respirable dust in the mine atmosphere where miners work or travel relies on periodic occupational

and area or environmental sampling. Corrective actions are required when sampling results indicate noncompliance with the applicable dust standard. Because all dust samples taken for compliance purposes must be transmitted to MSHA for processing, the results are not known for days after sampling. Consequently, if results require the operator to take corrective action to reduce airborne dust levels, those efforts would only affect exposures on subsequent work shifts; this may be some time period after sampling. Continuous exposure monitoring, on the other hand, would provide mine operators with information about the actual dust levels in the workplace on a real-time basis. This would permit mine management to be proactive in taking corrective action during the shift to prevent possible overexposures by optimizing mining practices and implementing appropriate measures to correct problems as they arise. However, successful use of CPDMs for exposure assessment and control will depend on the proper application of the device's capability to supply timely information on respirable dust concentrations during a working shift, the proper interpretation of the information provided, and timely intervention to prevent overexposing miners. In this context, MSHA requests comment on the following related to the application of the CPDM:

1. Please address conditions and circumstances under which CPDMs should be proposed for use in underground coal mines. In your response, include factors such as mine size, compliance history, type of mining, presence of quartz, and designated occupation. In addition, please address whether the CPDM could be integrated into the existing compliance strategy, and, if so, how. Please be specific in your response, and address any technological and economic feasibility issues associated with using CPDMs.

2. Please address the advantages and disadvantages of the existing compliance strategy, which relies on a combination of occupational and area sampling, versus a personal exposure monitoring strategy only. Please be specific in your response, noting the safety and health benefits of each strategy.

3. If CPDMs were to be required, how should a compliance strategy based on CPDMs be structured? Please be specific as to miners and occupations covered and include the rationale for your response. Include suggestions for the role of the mine operator, miner, miners'

representatives, and MSHA under such a strategy.

4. How would the use of CPDMs impact the frequency of sampling? Please be specific and address how the concentration and exposure levels impact the frequency of sampling.

5. What examinations should be performed to assure the validity of exposure measurements, and how frequently should these examinations be made?

6. Since the current exposure limits were developed from 8-hour shift exposure measurements, how should the miner's end-of-shift exposure be reported when the work shift is longer than 8 hours?

7. Since the CPDM cannot be used to monitor for quartz, how should the applicable dust standard, including reduced standards established when the quartz content of the respirable dust exceeds 5 percent, be addressed when using a CPDM?

8. Please address the use of CPDMs for sampling in outby areas, including specific areas, occupations, and frequency of sampling.

9. Please address the use of engineering and administrative controls including how such controls should be applied to the CPDM's real-time exposure readings.

10. What action should be taken by the mine operator when a miner's exposure during a working shift reaches the dust standard limit?

11. Please address the use of CPDMs at surface mines, including sampling of areas, occupations and miners.

#### *B. Dust Control Plan Requirements*

Providing and maintaining a work environment free of excessive levels of respirable dust is essential for long-term health protection. Monitoring the work environment provides an indication of the effectiveness of existing dust controls; however, monitoring alone does not control concentrations of respirable dust in the mine atmosphere. Accordingly, consistent with MSHA's regulatory strategy, engineering or environmental controls are the principal methods that have been relied on over the past 35 years to prevent or minimize miners' exposures to both primary and secondary sources of respirable dust in the workplace. These controls are required in an operator's approved mine ventilation plan to provide assurance that miners are not being exposed to excessive dust levels. Since the CPDM provides real-time information on concentration levels, MSHA is exploring alternatives to limiting miners' exposures. MSHA is therefore

requesting comments on the following dust control plan issues:

1. Please address the advantages and disadvantages of using engineering controls to maintain the mine atmosphere in the area where miners work or travel. Please be specific in your response and include the technological and economic feasibility of such controls. In addition, please address the advantages and disadvantages of using administrative controls as part of an effective exposure control program.

2. If CPDMs are used, please address the information that would need to be included in the dust control portion of the mine ventilation plan, including information related to addressing silica.

#### *C. Recordkeeping*

To promote miners' awareness of the air quality in the work environment and the integrity of the sampling process, existing regulations require mine operators to send all collected samples to MSHA for processing within 24 hours after the end of the sampling shift. Once processed, the operator is provided with a respirable dust sample data report, which contains the results of every sample submitted. With few exceptions, the operator must post this report on the mine bulletin board for a period of 31 days to provide miners access to current information on respirable dust conditions in the mine. The results of all samples taken by mine operators and MSHA inspectors are maintained by MSHA in a database and retained permanently. With exposure information available at the completion of the work shift when a CPDM is used, existing recordkeeping requirements and responsibilities would need to be addressed. MSHA requests comment on how recordkeeping requirements based on the use of CPDMs should be structured. Please be specific in your response.

1. Who should be responsible for maintaining the CPDM data files and why? How long should exposure records be maintained? How should information be used?

2. How should the data from operator monitoring using the CPDM be transmitted to MSHA? What data should be transmitted? How often should the data be transmitted (e.g., daily, weekly, or some other frequency)? What steps should be taken to ensure the integrity of the data transmitted to MSHA?

3. Under current regulations, mine operators, with few exceptions, post the monitoring results on the mine bulletin board for a period of 31 days. How practicable would it be for operators to continue this practice if the monitoring is conducted with the CPDM, which

results in the collection of significantly more data than with the current MRE instrument? Would it be appropriate for operators to only provide miners with a portion of the data captured by the CPDM or to post the data for a period less than 31 days? Please be specific with your response, including your rationale.

#### D. Education and Training

It is vital that persons designated by the mine operator to perform dust sampling functions and miners be properly educated and trained to assure the integrity and credibility of the sampling process. To be effective, these persons must be fully cognizant of the nature of the health hazards in the working environment and possess a level of competence in the proper use, operation and maintenance of sampling equipment, and an awareness of the limitations of available protective measures. The required level of competence would be dictated by the complexity inherent in the operation of the particular CPDM and the degree to which oversight of sampling integrity is to be assumed by mine operators using the CPDMs. MSHA requests comments on suggested elements for a training program on using and maintaining a CPDM. Please be specific in your response, addressing the quality, quantity, and types of training, and the qualifications and certifications that should be required.

1. What training should miners receive if required to wear a CPDM? What type of training would be necessary to assure that the miner understands how the device works, what information it provides, and how that information should be used to reduce miners' exposure to respirable dust? How often should miners be required to receive this training?

2. What qualifications should be required before an individual is permitted to operate and maintain a CPDM? How should an individual be required to demonstrate proficiency before being permitted to operate and maintain a CPDM?

3. Which mine personnel should oversee CPDM usage, download exposure information, and interpret data? What type of qualifications/certifications should these personnel be required to have?

#### E. Benefits and Costs

Because of the changing mining environment, more timely feedback on current respirable dust conditions in the workplace should significantly enhance miner health protection. Benefits would include the ability to immediately

identify hazardous dust conditions that cause debilitating and potentially fatal coal workers' pneumoconiosis or "black lung" disease, and to reduce or eliminate the risk of overexposure and the potential for illness and premature death, thereby avoiding the attendant costs to employers, miners and their families, and society.

MSHA requests comment on the following questions concerning the benefits and costs of the CPDM:

1. What would be the benefits of using CPDMs in a comprehensive and effective compliance strategy? Note that benefits might differ depending upon which compliance strategy is selected.

2. What costs would be associated with using CPDMs? Please be specific as to every component, such as, initial outlay, maintenance, and training.

3. What would be the advantages, disadvantages, and relative costs of different methods of using CPDMs?

4. Would the use of CPDMs affect small mines differently than large mines, and if so, how?

5. What incentives, if any, should MSHA consider to promote effective use of CPDMs in coal mines?

6. What actions, if any, should MSHA take to encourage coal mining industry acceptance of the CPDM technology, stimulate economic market forces for more competitive pricing of CPDM devices, and promote innovation in respirable dust monitoring technology?

Dated: October 7, 2009.

**Gregory R. Wagner,**

*Deputy Assistant Secretary for Policy, Mine Safety and Health Administration.*

[FR Doc. E9-24665 Filed 10-13-09; 8:45 am]

**BILLING CODE 4510-43-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[Docket No. FWS-R7-SM-2009-0052]  
[70101-1261-0000L6]

RIN 1018-AW77

#### Subsistence Management Regulations for Public Lands in Alaska, Subpart B; Special Actions

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Forest Service and U.S. Fish and Wildlife Service, are proposing to amend the regulations that manage take of wildlife and fish in Alaska for subsistence purposes to clarify them. In particular, we want to clarify the Federal Subsistence Board's process of accepting and addressing special action requests, along with the role of the Regional Advisory Councils in the special action process. We would also update public notice requirements to bring them into line with the practices of the digital age and accommodate a new biennial regulatory cycle.

**DATES:** *Public meeting:* The Federal Subsistence Board will hold a public meeting on January 12, 2010, to receive comments on this proposed rule. See **SUPPLEMENTARY INFORMATION** for specific information on the public meeting.

*Public comments:* We must receive written comments on this proposed rule by January 12, 2010.

**ADDRESSES:** *Public meeting:* The Federal Subsistence Board public meeting will be held at the Coast International Inn in Anchorage, Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on the public meeting.

*Public comments:* You may submit comments by one of the following methods:

- Electronically: Go to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. In the Search Documents box, enter FWS-R7-SM-2009-0052, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Send a Comment or Submission."

- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199; or hand-delivery to the Designated Federal Official attending the Federal Subsistence Board public meeting in Anchorage.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

**FOR FURTHER INFORMATION CONTACT:** For questions specific to National Forest System lands, contact Calvin H. Casipit, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 586-7918. For questions regarding Department of the Interior lands, contact