

TABLE 1.—OMB CONTROL NUMBERS—Continued

30 CFR citation	OMB control No.
77.1101 .....	1219-0051
77.1200 .....	1219-0073
77.1201 .....	1219-0073
77.1202 .....	1219-0073
77.1404 .....	1219-0034
77.1432 .....	1219-0034
77.1433 .....	1219-0034
77.1702 .....	1219-0078
77.1713 .....	1219-0083
77.1900 .....	1219-0019
77.1901 .....	1219-0082
77.1906 .....	1219-0034
77.1909-1 .....	1219-0025
90.201(c) .....	1219-0011
90.202 .....	1219-0011
90.204 .....	1219-0011
90.209 .....	1219-0011
90.220 .....	1219-0011
90.300 .....	1219-0011
90.301 .....	1219-0011

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**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Part 75**

RIN 1219-AA76

**Underground Coal Mine Ventilation—Safety Standards for the Use of a Belt Entry as an Intake Air Course To Ventilate Working Sections and Areas Where Mechanized Mining Equipment Is Being Installed or Removed**

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

**ACTION:** Final rule; conforming to the Court's opinion.

**SUMMARY:** On April 2, 2004, the Mine Safety and Health Administration published a final rule revising underground coal mine ventilation standards to allow the use of air traveling in the belt entry to ventilate working sections or areas where mechanized mining equipment is being installed or removed. The International Union, United Mine Workers of America and Jim Walter Resources, Inc. challenged the rule. On May 24, 2005, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion denying the Union's petition for review and granting the petition of Jim Walter Resources, Inc. Jim Walter Resources, Inc.'s petition challenged the Secretary of Labor's promulgation of 30 Code of Federal Regulations section 75.350(a)(2), which, under certain circumstances, set

a velocity cap of 500 feet per minute in the belt entry of underground coal mines. This document provides notice of, and effectuates, the Court's opinion to vacate paragraph (a)(2) of section 75.350 and remand the matter to the Secretary of Labor.

**DATES:** Effective June 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rebecca J. Smith, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939. Ms. Smith can be reached at [smith.rebecca@dol.gov](mailto:smith.rebecca@dol.gov) (Internet e-mail), (202) 693-9440 (voice), or (202) 693-9441 (facsimile). The document is also available on the Internet at <http://www.msha.gov/regsinfo.htm>. We maintain a listserv on our Web site that enables subscribers to receive e-mail notification when we publish rulemaking documents in the **Federal Register**. To subscribe to the listserv, visit our site at <http://www.msha.gov/subscriptions/subscribe.aspx>.

**SUPPLEMENTARY INFORMATION:** On April 2, 2004, the Mine Safety and Health Administration (MSHA) published a final rule (69 FR 17480) revising underground coal mine ventilation standards to allow the use of air traveling in the belt entry (belt air) to ventilate working sections or to areas where mechanized mining equipment is being installed or removed. In response to the belt air rule's publication, the International Union, United Mine Workers of America ("the Union") and Jim Walter Resources, Inc. ("JWR") filed petitions with the Court of Appeals for the DC Circuit challenging the rule on separate grounds. The court consolidated both petitions and issued a decision, *International Union, United Mine Workers of America v. Mine Safety and Health Administration*, 407 F.3d 1250 (DC Cir. 2005). The Court denied the Union's petition for review. In the petition of JWR, the coal mining company challenged the Secretary's promulgation of 30 Code of Federal Regulations (CFR) 75.350(a)(2), which states that "[t]he maximum air velocity in the belt entry must be no greater than 500 feet per minute unless otherwise approved in the mine ventilation plan." JWR contended that the 500 feet per minute velocity cap referenced in the section was invalid because the Secretary failed to comply with the notice-and-comment requirements of section 101(a) of the Federal Mine Safety and Health Act of 1977, 30 United States Code (U.S.C.) 811(a), and the Administrative Procedure Act, 5 U.S.C. 553(b).

The Court of Appeals granted JWR's petition; vacated paragraph (a)(2) of § 75.350(a)(2); and remanded the matter to the Secretary of Labor. In compliance with the Court's opinion the provision is removed from 30 CFR and the remaining provision is renumbered.

**List of Subjects in 30 CFR Part 75**

Mandatory safety standards, Mine safety and health, Underground coal mines, Ventilation.

Dated: June 23, 2005.

**David G. Dye,**

*Deputy Assistant Secretary of Labor for Mine Safety and Health.*

■ Chapter I of Title 30, part 75 of the Code of Federal Regulations is amended as follows:

**PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES**

■ 1. The authority citation for part 75 continues to read as follows:

**Authority:** 30 U.S.C 811.

■ 2. Amend § 75.350 by removing paragraph (a)(2) and redesignating paragraph (a)(3) as the new (a)(2).

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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 223**

RIN 0596-AC29

**Sale and Disposal of National Forest System Timber; Timber Sale Contracts; Indices To Determine Market-Related Contract Term Additions**

**AGENCY:** Forest Service, USDA.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule amends the current regulation by requiring the use of three alternative Producer Price Indices (PPI) from the Bureau of Labor Statistics in lieu of the four PPI that the Forest Service has monitored for use in timber sale contract market-related contract term additions. After December 2003, the Bureau of Labor Statistics discontinued providing three of the four PPI that the Forest Service has monitored and changed the reference number for the fourth PPI. The Forest Service is issuing an interim final rule implementing the use of the three alternative PPI, prior to