

L. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this proposed rule for its energy effects. For the energy analysis, this proposed rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy” 90 FR 8353 (Jan. 29, 2025); E.O. 14192, “Unleashing Prosperity Through Deregulation” 90 FR 9065 (Feb. 6, 2025); and the Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis” 90 FR 8245 (Jan. 28, 2025). This proposed rule is expected to be an E.O. 14192 deregulatory action.

List of Subjects in 30 CFR Part 75

Coal mines, Mine safety and health, Reporting and recordkeeping requirements, Safety, Training programs, Underground mining.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA proposes to amend chapter I of title 30 of the Code of Federal Regulations as follows:

SUBCHAPTER O—COAL MINE SAFETY AND HEALTH**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, 813(h), and 957.

Subpart F—Electrical Equipment—General

■ 2. Revise § 75.500(d) to read as follows:

§ 75.500 Permissible electric equipment.

* * * * *

(d) All other electric face equipment which is taken into or used in by the last crosscut of any coal mine, which has not been classified under any provision

of law as a gassy mine prior to March 30, 1970, shall be permissible.

§ 75.501 [Removed and Reserved].**§ 75.501–1 [Removed and Reserved].****§ 75.501–2 [Removed and Reserved].****§ 75.501–3 [Removed and Reserved].****§ 75.502 [Removed and Reserved].**

■ 3. Remove and reserve §§ 75.501, 75.501–1, 75.501–2, 75.501–3, and 75.502.

■ 4. Revise § 75.503 to read as follows:

§ 75.503 Permissible electric face equipment; maintenance.

The operator of each coal mine shall maintain in permissible condition all electric face equipment required by §§ 75.500 and 75.504 to be permissible which is taken into or used in by the last open crosscut of any such mine.

■ 5. Revise § 75.504 to read as follows:

§ 75.504 Permissibility of new, replacement, used, reconditioned, additional, and rebuilt electric face equipment.

All new, replacement, used, reconditioned, and additional electric face equipment used in any mine referred to in §§ 75.500 and 75.503 shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of electric face equipment, such equipment shall be put in, and thereafter maintained in, a permissible condition, unless in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

James P. McHugh,

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

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DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Part 75**

[Docket No. MSHA–2025–0084]

RIN 1219–AC21

Ventilation Plan Approval Criteria

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

ACTION: Proposed rule; request for comments.

SUMMARY: MSHA proposes to revise requirements for the contents in mine ventilation plans to eliminate the

authority given to the District Manager to require additional provisions. The current standard may violate statutory authority; the Appointments Clause, by vesting significant regulatory authority in District Managers; and the Administrative Procedure Act (APA), by skipping notice and comment.

DATES: Comments must be received on or before July 31, 2025.

ADDRESSES: All submissions must include RIN 1219–AC21 or Docket No. MSHA–2025–0084. You should not include personal or proprietary information that you do not wish to disclose publicly. If you mark parts of a comment as “business confidential” information, MSHA will not post those parts of the comment. Otherwise, MSHA will post all comments without change, including any personal information provided. MSHA cautions against submitting personal information.

You may submit comments and informational materials, clearly identified by RIN 1219–AC21 or Docket No. MSHA–2025–0084, by any of the following methods:

1. *Federal E-Rulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments for MSHA–2025–0084. A brief summary of this document will be available at <https://www.regulations.gov/docket/MSHA-2025-0084>.

2. *Email:* zzMSHA-comments@dol.gov. Include “RIN 1219–AC21” in the subject line of the message.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Avenue NW, Washington, DC 20210. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

No telefacsimiles (“faxes”) will be accepted.

FOR FURTHER INFORMATION CONTACT:

Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA at 202–693–9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:**I. Background**

By statute, Congress prescribed an interim standard requiring that “[a]ll coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary.” 30 U.S.C. 863(a). Further, by statute, the Secretary of Labor must set out “mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.” 30

U.S.C. 811(a). In the Mine Act, Congress prescribed very specific interim ventilation standards. 30 U.S.C. 863(b)–(c) and (h)–(m). Congress likewise required every operator to prepare “A ventilation system and methane and dust control plan and revisions suitable to the conditions and the mining system of the coal mine . . .” 30 U.S.C. 863(o). MSHA has adopted regulations to implement 30 U.S.C. 863 and these standards include submission and approval of mine ventilation plans. 30 CFR 75.370. Each mine operator must “develop and follow a ventilation plan” which is “approved by the District Manager.” 30 CFR 75.370(a)(1). No proposed ventilation plan may be implemented before it is approved by the District Manager. 30 CFR 75.370(d).

MSHA regulations also set out detailed contents for the mine ventilation plans. 30 CFR 75.371. For example, ventilation plans must include “planned main mine fan stoppages, other than those scheduled for testing, maintenance or adjustment, including procedures to be followed during these stoppages and subsequent restarts and the type of device to be used for monitoring main mine fan pressure, if other than a pressure recording device.” 30 CFR 75.371(b), “Section and face ventilation systems used and the minimum quantity of air that will be delivered to the working section . . .” 30 CFR 75.371(f), “Locations where air quantities must be greater than 3,000 cubic feet per minute.” 30 CFR 75.371(g), and many other specific requirements. 30 CFR 75.371. The ventilation plan has the force and effect of “law” at the mine. The mine may be cited for violation of the plan and mine personnel may be held personally liable, civilly and criminally, for violations of the plan.

Title 30 CFR 75.371 also gives the District Manager broad authority to add regulatory requirements to the Ventilation Plan which are neither described, nor required, by the regulations or 30 U.S.C. 863. Specifically, the regulations currently state, without limitation, that “[t]he mine ventilation plan shall contain the information described below *and any additional provisions required by the district manager.*” 30 CFR 75.371 (emphasis added).

II. Discussion

MSHA is proposing to rescind the power of District Managers to require additional provisions in ventilation control plans, beyond the reticulated criteria set out in 30 CFR 75.371 and other requirements set forth in 30 CFR 75.370–371. MSHA has reevaluated its

regulations and tentatively concluded that the significant authority and discretion granted to District Managers in 30 CFR 75.371 to add “*and any additional provisions required by the district manager,*” not identified in the statute or improved mandatory safety standards is not supported by statute and violates the Appointments Clause and the APA.

While mine operators are required by statute to prepare and submit a “ventilation system and methane and dust control plan,” and while MSHA has promulgated regulations setting forth specific contents and requirements for ventilation plans, nothing in the plain text of the underlying statute including 30 U.S.C. 863 and 30 U.S.C. 811(a), can be read to permit the unfettered addition of “*and any additional provisions required by the district manager.*” 30 CFR 75.371. This lack of statutory authority is contrary to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) and is an adequate reason to rescind the clause “*and any additional provisions required by the district manager.*”

Government officials that exercise significant discretion when carrying out important functions are officers of the United States, and thus subject to the Appointments Clause. *See Lucia v. SEC*, 585 U.S. 237, 248 (2018); U.S. Const. Art. II, § 2, cl. 2. Under Section 75.371, District Managers are granted nearly unlimited discretion to include additional provisions in mine ventilation plans as they deem appropriate. Accordingly, because District Managers are not appointed pursuant to the Appointments Clause, that substantial authority is unlawful.

Independently, the significant discretion in section 75.371 appears to violate the APA. The introductory text in 30 CFR 75.371 essentially amounts to the unfettered ability of the District Manager to draft and create “laws” which are civilly and criminally enforceable, without bicameral presentment, and without notice and comment rulemaking. Various statutory provisions, including 30 U.S.C. 811, give the Secretary authority to issue health and safety regulations for mines. When these regulations are substantive rules, with “general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy,” 5 U.S.C. 551(4), they are subject to the notice and comment process. MSHA must present the rulemaking to the public for comment, then issue a final rule responding to any comments. *See* 5 U.S.C. 553. 30 CFR 75.371 skips this process entirely when it vests District Managers with the

authority to require undesignated ventilation plan provisions. Giving the District Manager authority to include additional provisions in ventilation plans, is promulgating a new substantive rule of particular applicability, without any of the necessary process. Thus, 30 CFR 75.371 violates the APA.

MSHA seeks all comments on any aspects of the proposed rule, including the statutory authority, appointments clause issues and APA requirements, and the costs and benefits of the District Manager’s vague authority.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the

importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether Agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a "significant regulatory action" is a regulatory action that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

Background

The proposed rule would apply to all underground coal mines. The existing rule allows the District Manager to require mine operators to include plan requirements not specified in the statute or regulations, while the proposed rule would rescind the power of District Managers to do so. The proposed change would decrease the burden currently faced by mine operators of having to revise their ventilation plans to include plan requirements not specified in the statute or regulations when required by the District Manager. The proposed rule would maintain the existing ventilation plan requirements, except for the District Manager's discretion to include plan requirements not specified in the statute or regulations.

Based on MSHA internal data, the Agency estimates there will be approximately 215 underground coal mines operating each year that would be impacted by this proposed rule.¹ All estimated figures are expressed in 2024 dollars.

Under the baseline scenario mine operators would continue their current

practice of making changes to their ventilation plans as deemed necessary by their District Manager, but not required elsewhere in existing regulations. Under the proposed rule mine operators would no longer need to include plan requirements not specified in the statute or regulations.

Benefits

Under this proposed rule mine operators would no longer be required to incorporate novel or unspecified provisions into their ventilation plans at the discretion of the District Manager. This change does not impact any other existing requirements for ventilation plans. This action will remove improper regulatory burden and reduce arbitrary and unforeseen demands on mine operators.

The benefits associated with the proposed rule cannot be easily quantified due to existing information gaps and challenges with quantifying the incremental shifts in costs and benefits under the proposed rule. However, some benefits are discussed in a qualitative manner below. The potential benefits of the proposed rule include:

(1) reduced production delays for mines—faster plan approval can enable earlier initiation or resumption of mining operations, reducing downtime, and increasing operational efficiency;

(2) improved resource allocation—predictable and consistent plan requirements reduce the need for mine operators to hire consultants or devote engineering resources to anticipate or respond to unpredictable District Managers' additional criteria;

(3) regulatory certainty—by aligning plan requirements strictly with the regulations, operators can better plan capital expenditures, staffing, and compliance investments, improving long-term planning and cost efficiency;

(4) increased domestic energy production—more predictable plan approval processes may allow mines to optimize coal output, supporting national energy goals and supply chain stability; and,

(5) prevents unauthorized rulemaking—preventing extra-statutory, unaccountable and unauthorized rulemaking restores confidence in the administrative process.

MSHA requests public comments on potential benefits associated with this proposal.

Cost Savings

MSHA estimates that mine operators would accrue a cost reduction from efficiencies associated with specific and consistent ventilation plan

requirements, both for initial plans and revisions. Removing the provision asserting broad District Manager discretion with respect to ventilation plan requirements would result in cost savings to mine operators who would be better able to anticipate required plan revisions and receive plan approval more quickly. MSHA estimates that mine operators would accrue a cost reduction from no longer having to revise ventilation plans at the request of the District Manager. The Agency estimates that each year 14 new ventilation plans, and 760 revised ventilation plans are submitted to MSHA. Of which, 50 percent (387 plans)² would need to be revised specifically at the discretion of the District Manager. MSHA requests comments on the estimated number of plans impacted by this proposal.

MSHA used data from the May 2024 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates³ and adjusted the rates for benefits,⁴ wage inflation,⁵ and overhead costs.⁶ The analysis period is 10 years.

The cost savings generated by the proposed rule consists of the following:

² 387 revised plans at the request of the District Manager = (14 new plans + 760 revised plans) × 50 percent.

³ To obtain OEWS data, follow BLS's directions in its Frequently Asked Questions: "E. How to get OEWS data. 4. What are the different ways to obtain OEWS estimates from this website?" at https://www.bls.gov/oes/oes_ques.htm.

⁴ The benefit multiplier comes from BLS Employer Costs for Employee Compensation accessed by menu at <http://data.bls.gov/cgi-bin/srgate> or directly at <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. Insert the data series CMU2030000405000D and CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, which is divided by 100 to convert to a decimal value. MSHA uses the latest 4-quarter moving average 2024Q1–2024Q4 to determine that 31.2 percent of total loaded wages are benefits. MSHA computes the benefit multiplier with a number of detailed calculations, but it may be approximated with the formula $1 + (\text{benefit percentage} / (1 - \text{benefit percentage}))$. The benefit multiplier is $1.453 = 1 + (0.312 / (1 - 0.312))$.

⁵ Wage inflation is the change in Series ID: CIS2020000405000I; Seasonally adjusted; Series Title: Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index. (<https://data.bls.gov/cgi-bin/srgate>; Inflation Multiplier = (Current Quarter Cost Index Value/OEWS Wage Base Quarter Index Value). The inflation multiplier is determined by using the employment price index from the most current quarter, 2024Q4, divided by the base year and quarter of the OEWS employment and wage statistics, 2024Q2. The inflation multiplier is $1.022 = 166.7/163.1$.

⁶ MSHA uses an overhead rate of 17 percent. This overhead rate is based on a 2002 EPA report by Cody Rice, "Wage Rates for Economic Analysis of the Toxics Release Inventory Program", available at <https://www.regulations.gov/document/EPA-HQ-OPPT-2016-0387-0064>.

¹ The Number of mines inspected at least once in 2024 and whose 'current status' is listed as active, intermittent, or nonproducing active on April 14, 2025.

1. Revisions to Ventilation Plans Required by the District Manager

MSHA assumes that under the baseline each year there are 387 new and revised ventilation plans that are revised at the District Managers discretion. MSHA estimates that it takes a coal mine supervisor, earning \$95.72 per hour, 1 hour to make the requested revisions. Under the proposed rule these revisions would no longer need to be made, creating an annual cost saving of \$37,044.⁷

2. Providing Notifications of Denials

Currently when MSHA denies a ventilation plan or a revision to a plan the mine operator must notify the miner's representative of this denial. MSHA estimates that the 387 plans that under the baseline would require revisions to meet the District Manager's requirements would receive such a denial upon their first submission. It is assumed that it takes a clerical worker, earning \$44.53 per hour 15 minutes to make such notifications. The proposed rule would remove the need for these notifications, creating an annual cost saving of \$4,308.⁸

3. Notification of Resubmission of Ventilation Plan and Provide a Copy of Resubmission

When a mine operator submits a ventilation plan or a revision to a plan, they must notify the miner's representative of the submission and provide them with a copy. MSHA estimates that the 387 plans that would under the baseline require revisions to meet the District Manager's requirements would have to be revised and then resubmitted to MSHA. It is assumed that it takes a clerical worker earning \$44.53, 15 minutes to make such notifications. The proposed rule would remove the need for these notifications, creating an annual cost saving of \$4,308.⁹

It is assumed that each resubmission is approximately 3 pages long and the cost to print per page is \$0.15. Under the proposed rule mine operators would no longer need to generate these copies creating an annual cost saving of \$174.¹⁰

4. Copying and Mailing Ventilation Plans

In submitting ventilation plans to MSHA, the operator is expected to incur a cost to mail in any physical plans or

revisions. MSHA assumes that 100 percent of plans and plan revisions are submitted to MSHA physically via the mail. Under the baseline 387 plans that would have had to be resubmitted with revisions to meet the District Manager's requirements. At a cost of \$1.45 per plan for copying (3 pages per plan, \$0.15 per page) and mailing (\$1.00 per plan), removing this requirement would lead to an annual cost saving of \$561.¹¹

Summary

Removing the provisions concerning the District Manager's requirements for ventilation plans would result in cost savings to mine operators through avoided revisions to ventilation plans that under the existing regulation, would have been requested by the District Manager. Under the proposed rule, incremental cost savings are estimated at \$0.464 million over 10 years undiscounted. These cost savings include no longer revising ventilation plans to meet non-statutory or regulatory requirements by the District Manager, providing copies of revised plans to miners and their representatives, and the avoided costs of copying and mailing revised ventilation plans. For this proposed rule, the Agency estimates that the annualized cost saving across the three discount rates of 0 percent, 3 percent, and 7 percent would be \$46,395.

While cost savings are quantified, potential benefits of the proposed rule have been addressed in a qualitative manner and include: reduced production delays, improved resource allocation, regulatory certainty, increased domestic energy production and unauthorized rulemaking. Additionally, more efficient approval of ventilation plans is expected to result in other cost savings, including earlier initiation (or resumption) of production and revenue due to simplified plan and amendment approvals, lower costs associated with subject matter expert consultants hired by mine operators in response to unanticipated Agency requirements, and other efficiencies generated by increased regulatory predictability resulting from this action. Benefits of the proposed rule could also result from a more efficient Agency review and approval of ventilation plans for underground coal mines. Underground coal mine operators are expected to benefit from the proposed rule that clarifies the information and provisions required in ventilation plans. This is expected to help ease operator confusion regarding what content is

required when developing ventilation plans for MSHA approval and to result in an increase in the time value of revenues generated by coal production. Another potential benefit to the public is the increased opportunity to produce coal, which would improve American energy production. The proposed rule is deregulatory because it reduces qualitative burdens for mine operators. Additionally, the Agency experience supports cost savings that are not yet quantified.

Significance Determination

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether Agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a "significant regulatory action" is a regulatory action that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

OIRA has designated this rule a "significant regulatory action" under section 3(f) of E.O. 12866. Accordingly, it will be reviewed by OMB.

No alternatives are considered for this proposed deregulatory action. MSHA requests comments on alternatives within the Agency's authority that would generate similar or greater benefits.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires preparation of an Initial Regulatory Flexibility Analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on

⁷ \$37,044 = 387 plans × \$95.72 per hour × 1 hour.

⁸ \$4,308 = 387 plans × \$44.53 per hour × 15 minutes.

⁹ \$4,308 = 387 plans × \$44.53 per hour × 15 minutes.

¹⁰ \$174 = 387 plans × (3 pages × \$.15 cost per page).

¹¹ \$561 = 387 plans × ((3 pages × \$.15 cost per page) + \$1 mailing cost).

a substantial number of small entities. The RFA defines small entities to include small businesses, small organizations, including not-for-profit organizations, and small governmental jurisdictions.

Under the RFA, MSHA uses the Small Business Administration's (SBA) definition to set thresholds for small business sizes for the MNM and coal mining industries defined at the 6-digit North American Industry Classification System (NAICS) level. For underground coal mines the threshold is 1,500 employees and MSHA estimates that there are 115 underground coal mines that meet the definition of small.

MSHA evaluated data routinely provided by mine operators related to the number of mines, employment, and production from MSHA's Standardized Information System (MSIS) for underground coal mines. MSHA calculated revenues as production of coal in short tons times the average price of coal. Using internal data, MSHA estimates that small coal mines produce roughly 92.1 million tons of coal annually. Using U.S. Energy Information Administration Annual Coal Report 2023 Table 28, Average Sales Price of Coal by State and Mine Type, the average coal price for was \$54.04 per short ton in 2023. The price was then adjusted to 2024 dollars using CPI-U, \$55.63 per short ton, to estimate national coal revenues generated by small coal mines of \$5.1 billion.

MSHA assesses the impacts on small entities by comparing the estimated costs, in this case cost savings, of the proposed rule to the estimated revenues for those small entities. When estimated compliance costs are less than 1 percent of the estimated revenues, the Agency believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. When estimated compliance costs exceed 1 percent of revenues, MSHA investigates whether further analysis is required. The impact of the proposed rule, as a percentage of revenue, is essentially zero: for small coal mine operators the total annualized cost is \$46,395 while total annual revenue is \$5.1 billion, resulting in a ratio of 0.001 percent. Thus, no further analysis is required.

MSHA considered the costs on small mines when developing the proposed rule. MSHA reviewed this proposed rule, which eliminates burdensome regulations, under the provisions of the RFA. MSHA initially concludes that this proposed rule would not have a 'significant economic impact on a substantial number of small entities,' and that the preparation of an IRFA is

not warranted. MSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring "a collection of information" from the public.

This proposed rule imposes no new information collection or record-keeping requirements. However, this proposed rule would result in substantive changes to another currently approved information collection request, OMB Control Number 1219-0088 "Ventilation Plans, Tests, and Examinations in Underground Coal Mines." The currently approved information collection request covers requirements in 30 CFR part 75, which sets forth the procedures and rules to govern the submission and approval of ventilation plans.

Type of Review: Substantive Change to currently approved information collection.

OMB Control Number: 1219-0088.

Title: Ventilation Plans, Tests, and Examinations in Underground Coal Mines.

Description of the ICR:

Background

The proposed rule would apply to all underground coal mines. The existing rule allows the District Manager the discretion to revise ventilation plans, while the proposed rule would decrease the burden currently faced by mine operators of having to revise their ventilation plans when required by the District Manager.

Based on MSHA internal data, there were 225 underground coal mines in the calendar year 2023 affected by this information collection request (70 mines with 1-19 employees, 146 mines with 20-500 employees, and 9 mines with more than 500 employees). On average, there is 1 fan, 1 working section, and 1 shift per day at mines with 1-19 employees; 1.5 fans, 2.5 working sections, and 2 shifts per day at mines with 20-500 employees; and 1.5 fans,

2.5 working sections, and 3 shifts per day at mines with more than 500 employees. MSHA estimates that there are on average of 200 working days/50 weeks of operation in mines with 1-19 employees; 300 working days/52 weeks of operation in mines with 20-500 employees; and 350 working days/52 weeks of operation in mines with more than 500 employees. The burden hour estimates are based on the total number of weeks mines operate yearly, rather than on the average number of work weeks.

Summary of Changes

This change request will change the supporting statement for this information collection request. Currently 225 underground coal mines are impacted under 1219-0088 under the proposed rule. This change does not modify the authority or number of affected mine operators and contractors, but it does decrease the paperwork burden and costs associated with ventilation plans as captured by this information collection request.

The number of respondents, frequency of response, annual hour burden, and recordkeeping cost are described below.

1. Installation of Main Mine Fans (30 CFR 75.310(a))

Under 30 CFR 75.310, each mine is required to be ventilated by one or more main mine fans. This section sets forth requirements and specifications for the installation of main mine fans. Under 30 CFR 75.310(a)(4), mine operators are required to equip each main mine fan with a pressure recording device, which may be a part of a fan monitoring system, and to maintain the resulting records for one year.

The record, a pressure recording chart, will be generated an average of 50 weeks per year at mines with 1-19 employees, and every week (52 weeks per year) at mines with 20-500 employees and mines with more than 500 employees. MSHA assumes that mines with 1-19 employees will have 1 mine fan, while mines with 20 or more employees will average 1.5 mine fans per mine. The number of responses per respondent is thus 50 for mines with 1-19 employees and 78 for mines with 20 or more employees. MSHA estimates that it takes 7 minutes per week to generate and maintain the record for each fan. A miner earning \$47.97 per hour typically performs this task.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 15,590, the annual burden hours is

1,819, and the annual recordkeeping cost to respondents is \$0.

2. Main Mine Fan Examinations and Records (30 CFR 75.312)

2–1. Main Mine Fan Examination and Certification (30 CFR 75.312(a), (b), and (f))

Under 30 CFR 75.312(a) and (b), mine operators are required to conduct daily examinations on main mine fans not using a monitoring system to ensure electrical and mechanical reliability. For mines with a monitoring system, the data provided by the fan monitoring system must be reviewed at least once each day to assure that the fan and the fan monitoring system are operating properly. Fan examinations are not required on days when no one enters the mine. Although production may not occur, people do enter the mine for maintenance and examinations 240 days per year at mines with 1–19 employees, 365 days per year at mines with 20–500 employees, and 365 days at mines with more than 500 employees. MSHA assumes that mines with 1–19 employees will have 1 mine fan, while mines with 20 or more employees will average 1.5 mine fans. The number of responses per respondent is thus 240 for mines with 1–19 employees and 547.5 for mines with 20 or more employees.

Under 30 CFR 75.312(f)(1) and 75.321(f)(2), persons making main mine fan examinations must certify that the examinations were made. The fan examination certification time is estimated at 1 minute. A certified person earning \$62.39 per hour typically performs this task.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 101,663, the annual burden hours is 1,694, and the annual recordkeeping cost to respondents is \$0.

2–2. Automatic Fan Signal Device Testing (30 CFR 75.312(c), (d), and (g)(3))

Under 30 CFR 75.312(c), the automatic fan signal device for each main mine fan must be tested at least once every 31 days. Under 30 CFR 75.312(d), automatic closing doors in multiple main mine fan systems must be tested at least once every 31 days. A record of these tests is required under 30 CFR 75.312(g)(3), taking 5 minutes per mine, done 12 times yearly. MSHA assumes that mines with 1–19 employees will have 1 mine fan, while mines with 20 or more employees will average 1.5 mine fans. The number of responses per respondent is thus 12 for

mines with 1–19 employees and 18 for mines with 20 or more employees. This record can be performed by a certified person earning \$62.39 per hour.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 3,630, the annual burden hours is 303, and the annual recordkeeping cost to respondents is \$0.

2–3. Records of Uncorrected Defects (30 CFR 75.312(g)(1) and (2))

Under 30 CFR 75.312(g)(1), a record of uncorrected defects found during an examination must be kept. Estimated recordkeeping is 5 minutes and MSHA estimates that 90 mines will have uncorrected defects requiring a record each month. This record can be performed by a certified person earning \$62.39 per hour.

Under 30 CFR 75.312(g)(2)(ii), mines using monitoring systems to monitor fan pressure must make a record concerning monitoring system malfunctions and electrical or mechanical deficiencies, and any sudden increase or loss in mine ventilating pressure. MSHA estimates 20 mines will be required to make a record of monitoring system malfunctions. MSHA estimates the recordkeeping to take 10 minutes. This record can be performed by a certified person earning \$62.39 per hour.

This proposed rule does not impact this information collection cost. The number of annual respondents is 110, the number of annual responses is 1,320, the annual burden hours is 130, and the annual recordkeeping cost to respondents is \$0.

3. Methane Monitors (30 CFR 75.342(a))

Under 30 CFR 75.342(a)(1), mine operators must install MSHA approved methane monitors on all face cutting machines, continuous miners, longwall face equipment, loading machines, and other mechanized equipment used to extract or load coal in the working place. In addition, methane monitors must be maintained in permissible and proper operating condition and be calibrated with a known methane-air mixture at least once every 31 days. Under 30 CFR 75.342(a)(4)(ii) and (iii), operators are required to keep records of calibration tests for 1 year from the date of the test. Estimated time to make a record is 5 minutes per month for mines with 1–19 employees, and 8 minutes for mines with 20–500 and more than 500 employees. The record can be made by a qualified electrician earning \$59.34 per hour.

This proposed rule does not impact this information collection cost. The

number of annual respondents is 225, the number of annual responses is 2,700, the annual burden hours is 318, and the annual recordkeeping cost to respondents is \$0.

4. Atmospheric Monitoring Systems (30 CFR 75.351)

Under 30 CFR 75.351(o), when an atmospheric monitoring system is used to comply with 30 CFR 75.323(d)(1)(ii), 75.340(a)(1)(ii), 75.340(a)(2)(ii), 75.350(b), 75.350(d), or 75.362(f), individuals designated by the mine operator must make the following records by the end of the shift in which the following event(s) occur:

(i) If an alert or alarm signal occurs, a record of the date, time, location and type of sensor, and the cause for the activation.

(ii) If an AMS malfunctions, a record of the date, the extent and cause of the malfunction, and the corrective action taken to return the system to proper operation.

(iii) A record of the seven-day tests of alert and alarm signals; calibrations; and maintenance of the AMS must be made by the person(s) performing these actions.

It is estimated that 32 mines have these monitoring systems averaging 7 alarm activations annually. MSHA estimates that it will take 2 minutes to make a record of the occurrence. The record can be made by a certified person earning \$62.39 per hour.

This proposed rule does not impact this information collection cost. The number of annual respondents is 32, the number of annual responses is 224, the annual burden hours is 7, and the annual recordkeeping cost to respondents is \$0.

5. Preshift Examinations at Fixed Intervals (30 CFR 75.360)

Under 30 CFR 75.360(a)(1), preshift examinations are required to be conducted within 3 hours prior to the beginning of each shift. MSHA estimates that the number of workdays per year is: 200 days for mines with 1–19 employees; 300 days for mines with 20–500 employees; and 350 days for mines with more than 500 employees. On average, a mine with 1–19 employees will conduct 1 examination per day, mines with 20–500 employees will conduct 2 examinations per day, and mines with more than 500 employees will conduct 3 examinations per day. The number of responses per respondent is thus 200 for mines with 1–19 employees, 600 for mines with 20–500 employees, and 1,050 for mines with more than 500 employees.

Under 30 CFR 75.360(g) records of the results of preshift examinations, including hazardous conditions observed during the examinations and their locations, are required to be made. Mine operators are also required to record violations of mine specific mandatory health or safety standards found during these examinations. These mine standards represent the conditions or practices that, if uncorrected, present the greatest unsafe conditions and the most serious risks to miners. Records are also required to be made of the action taken to correct hazardous conditions and violations of the mine standards observed during the preshift examination.

MSHA estimates the recordkeeping activity to take 18 minutes per record in mines with 1–19 employees and 33 minutes per record in mines with 20 or more employees. Records are typically made by a certified person earning \$62.39 per hour. Countersigning by the mine supervisor, earning \$79.76 per hour, is required, and takes an estimated 5 minutes per record for mines with 1–19 employees, 10 minutes per record for mines with 20–500 employees, and 15 minutes per record for mines with more than 500 or more employees.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 222,100, the annual burden hours is 75,707, and the annual recordkeeping cost to respondents is \$0.

6. On-Shift Examination (30 CFR 75.362)

6–1. On-Shift Examination for Hazardous Conditions (30 CFR 75.362(a)(1))

The recordkeeping requirement for hazardous conditions and violations of the mine mandatory health or safety standards found during on-shift examinations under 30 CFR 75.362(a)(1) are accounted for in 30 CFR 75.363. The records that are accounted under 30 CFR 75.363 pertain to records recorded in a mine's book in accordance with 30 CFR 75.363(b).

Recordkeeping requirements under 30 CFR 75.362(g)(1), 75.362(g)(3) and (g)(4) pertain to violations under 75.362(a)(3)(i)–(vi). Under 30 CFR 75.362(g)(1), mine operators are required to have a certified person certify by initials, date, and time the examination was made and at enough locations to show the entire area has been examined for hazards under 30 CFR 75.362(a)(3)(i)–(vi), and in accordance with the recordkeeping requirements of 30 CFR 75.362(g)(1),

75.362(g)(3) and (g)(4). The estimated burden of this recordkeeping required under 30 CFR 75.362(g)(1), 75.362(g)(3) and (g)(4) are shown below.

These requirements include that a person designated by the operator must conduct an examination and record the results and the corrective actions taken to ensure compliance with 30 CFR 75.362(a)(3). The examinations are made on the sections and these sections include MMUs.

MSHA estimates that a certified person earning \$62.39 per hour, takes 3 minutes to make a record of the examination for the average mine in all mine sizes. MSHA estimates that there are 43 MMUs in mines with 1–19 employees, which average 1 shift per day; 360 MMUs in mines with 20–500 employees, which average 2 shifts per day; and 62 MMUs in mines with more than 500 employees, which average 3 shifts per day. Records of the examinations will need to be made of these shifts each working day. MSHA estimates that the number of workdays per year is: 200 days for mines with 1–19 employees; 300 days for mines with 20–500 employees; and 350 days for mines with more than 500 employees.

Under 30 CFR 75.362(g)(3), that at each mine the mine supervisor (foreman) or equivalent official must countersign each examination record under 30 CFR 75.362(a)(3) after it is certified by a certified person in accordance with 30 CFR 75.362(g)(2)(ii). MSHA estimates that it takes 1 minute for a mine supervisor or equivalent mine official earning \$79.79 per hour to review and countersign the record.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 579,400, the annual burden hours is 19,313, and the annual recordkeeping cost to respondents is \$0.

6–2. On-Shift Examination for Respirable Dust (30 CFR 75.362(a)(2))

Under 30 CFR 75.362(a)(2), a person designated by the operator must conduct an examination and record the results and the corrective actions taken to assure compliance with the respirable dust control parameters specified in the mine ventilation plan. MSHA estimates that on average, there is 1 fan, 1 working section, and 1 shift per day at mines with 1–19 employees; 1.5 fans, 2.5 working sections, and 2 shifts per day at mines with 20–500 employees; 1.5 fans, 2.5 working sections, and 3 shifts per day at mines with 501+ employees. Additionally, MSHA estimates that there are 43 MMUs in mines with 1–19 employees, which average 1 shift per

day; 360 MMUs in mines with 20–500 employees, which average 2 shifts per day; and 62 MMUs in mines with 501+ employees, which average 3 shifts per day. Records of the examinations will need to be made of these shifts each working day. MSHA estimates that the number of workdays per year is: 200 days for mines with 1–19 employees; 300 days for mines with 20–500 employees; and 350 days for mines with more than 500 employees.

MSHA estimates that a mine supervisor, earning \$79.76 per hour, takes 3 minutes to make a record of the examination for the average mine in all mine sizes.

Under 30 CFR 75.362(g)(2)(i), the record required under 75.362(a)(2) must be certified by initials, date, and time on a board maintained at the section load out or similar location showing that the examination was made prior to resuming production. This standard does not add any additional burden because the record is already required under 30 CFR 75.362(a)(2).

Under 30 CFR 75.362(g)(2)(ii), records required under 30 CFR 75.362(a)(2) must be verified by initials, date, and time, by the certified person directing the on-shift examination. Under 30 CFR 75.362(g)(3), the mine supervisor (foreman) or equivalent official must countersign each examination record under 30 CFR 75.362(a)(2) after it is verified by a certified person in accordance with 30 CFR 75.362(g)(2)(ii). MSHA estimates that it takes 1 minute for a certified person earning \$62.39 per hour to verify the record; and another 1 minute for a mine supervisor or equivalent mine official earning \$79.76 per hour to review and countersign the record.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 869,100, the annual burden hours is 24,142, and the annual recordkeeping cost to respondents is \$0.

7. Supplemental Examination for Hazardous Conditions and Violations of Mandatory Health or Safety Standards (30 CFR 75.361 and 75.363)

7–1. Supplemental Examination for Hazardous Conditions (30 CFR 75.361 and 75.363(a))

Under 30 CFR 75.363(b), a record of any hazardous conditions found, including any found during examinations under 30 CFR 75.361 supplemental examinations and any violation of the mine mandatory health or safety standards found during 30 CFR 75.362 on-shift examinations, must be

recorded by a certified person along with corrective actions taken to abate the conditions. This record must be countersigned by the mine supervisor. This record must be maintained in a secure book at the mine in accordance with 30 CFR 75.363(c). The time to record a hazard is estimated to be 5 minutes, and 3 minutes to countersign the record. The record can be made by a certified person earning \$62.39 per hour and signed by the mine supervisor earning \$79.76 per hour. MSHA estimates that 100 hazards per year will be recorded at mines with at least 20 employees and 50 hazards per year will be recorded in mines with fewer than 20 employees.

Under 30 CFR 75.361(a), a certified person is required to make a supplemental examination for hazardous conditions and violations of the mandatory health or safety standards referenced in paragraph (a)(2) of that section before any person enters an area of the mine that has not had a preshift examined. Under 30 CFR 75.361(b), at each working place examined, the person making the supplemental examination must certify by initials, date, and the time, that the examination was made. MSHA estimates that it takes 1 minute for a certified person earning \$62.39 per hour to make the certification.

Additionally, if a hazard is found or a violation of one or more of the mine specific health or safety standards is identified, then a record must be kept under 30 CFR 75.363.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 57,000, the annual burden hours is 2,850, and the annual recordkeeping cost to respondents is \$0.

7–2. Violations of Mandatory Health or Safety Standards (30 CFR 75.363(b))

Under 30 CFR 75.363, operators must record any violations of mine mandatory health or safety standards found on supplemental and on-shift examinations and any corrective actions taken. The mandatory health and safety standards represent the conditions or practices that, if uncorrected, present the greatest unsafe conditions and the most serious risks to miners. The supplemental (30 CFR 75.361) and on-shift (30 CFR 75.362) standards contain recordkeeping requirements if a violation of any of the standards is found.

During fiscal years 2021 through 2023, MSHA inspectors found an annual average of 12,057 violations of the mine standards MSHA believes

these violations are most likely to be identified during preshift, supplemental, on-shift, and weekly examinations. Because conditions resulting in these violations can occur and require corrective action multiple times during the year (*e.g.*, insufficient rock dust), MSHA multiplied the 12,057 violations found by MSHA inspectors by a factor of 1.5 to arrive at an estimated 18,085 violations. MSHA assumes that half of these violations—9,043 violations—would be identified on the preshift (30 CFR 75.360) and weekly examinations (30 CFR 75.364) and the other half, 9,042 violations, would be identified on supplemental and on-shift examinations.

MSHA estimates that 80 percent of these (7,234 violations out of 9,043 violations) would be found during on-shift examinations and 20 percent (1,809 violations out of 9,043 violations) would be found during the supplemental examinations. MSHA estimates that it would take 3 minutes to record any violations identified and corrective actions taken. Mine supervisors earning \$79.76 an hour perform on-shift exams and certified persons earning \$62.39 perform supplemental exams.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 9,043, the annual burden hours is 452, and the annual recordkeeping cost to respondents is \$0.

8. Weekly Examination (30 CFR 75.364)

8–1. Weekly Examination of Worked-Out Areas (30 CFR 75.364(a) and (h))

Under 30 CFR 75.364(a), at least every 7 days, a certified person must examine unsealed worked-out areas where no pillars have been recovered by traveling to the area of deepest penetration; measuring methane and oxygen concentrations and air quantities and making tests to determine if the air is moving in the proper direction in the area.

Under 30 CFR 75.364(h), at the completion of any shift during which a portion of a weekly examination is conducted, a record of the results of each weekly examination, including a record of hazardous conditions and violations of the nine mandatory health or safety standards found during each examination and their locations, the corrective action taken, and the results and location of air and methane measurements, must be made.

MSHA estimates the time required to make the record to be 35 minutes per record in mines with 1–19 employees

and 60 minutes per record in mines with 20 or more employees. Records are completed by a certified person earning \$62.39 per hour. The time needed to review and countersign the record by a mine supervisor earning \$79.76 per hour is 5 minutes per record at mines with 1–19 employees and 10 minutes per record at mines with 20 or more employees. MSHA also estimates that, on average, mines with 1–19 employees operate for 50 weeks out of the year and mines with 20+ employees operate 52 weeks out of the year.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 23,120, the annual burden hours is 11,737, and the annual recordkeeping cost to respondents is \$0.

8–2. Weekly Examination of Hazardous Conditions (30 CFR 75.364(b) and (h))

Under 30 CFR 75.364(b), at least every 7 days, an examination for hazardous conditions and violations of the mandatory health or safety standards, as listed in 30 CFR 75.364(b)(8), must be made by a certified person designated by the mine operator. The mandatory health and safety standards represent the conditions or practices that, if uncorrected, present the greatest unsafe conditions and the most serious risks to miners.

Under 30 CFR 75.364(h), at the completion of any shift during which a portion of a weekly examination is conducted, a record of the results of each weekly examination, including a record of hazardous conditions and violations of the nine mandatory health or safety standards found during each examination and their locations, the corrective action taken, and the results and location of air and methane measurements, must be made.

MSHA estimates that it would take a certified person 3 minutes to record violations along with any corrective actions taken. A certified person conducting these examinations earns a wage of \$62.39 per hour. MSHA also estimates that, on average, mines with 1–19 employees operate for 50 weeks out of the year and mines with 20+ employees operate 52 weeks out of the year.

This proposed rule does not impact this information collection cost. The number of annual respondents is 225, the number of annual responses is 11,560, the annual burden hours is 578, and the annual recordkeeping cost to respondents is \$0.

9. Mine Ventilation Plan; Submission and Approval (30 CFR 75.370 and 75.371)

9–1. Mine Ventilation Plans (30 CFR 75.370(a)(1) and (2))

Under 30 CFR 75.370, the mine operator must submit a proposed ventilation plan in writing to the District Manager for approval and that plan must be reviewed by MSHA every 6 months. However, once a ventilation plan is approved, the operator needs to submit only the revised pages, sketches, and drawings of the plan when proposing revisions, unless the District Manager requests in writing that the mine operator submit a new fully revised plan. The operator must update the plan as often as necessary to ensure in the mine. The mine operator must notify the representative of miners of any proposed and approved ventilation plan or plan revision, and upon request, provide a copy.

MSHA estimates that new ventilation plans will be developed and submitted in writing to the District Manager by new or newly active mines, which are estimated to be 6 percent of the total (4 mines with 1–19 employees, 9 mines with 20–500 employees, and 1 mine with more than 500 employees), and will each take 32 hours each. New plans, plan revisions, and maps are prepared by a mine supervisor earning \$79.76 per hour and copies are made by a clerical employee earning \$34.66 per hour. Under 30 CFR 75.370(b), following receipt of the proposed 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. MSHA assumes this will rarely take place. The annual burden cost for this provision is thus assumed to be ‘de minimis’. Under 30 CFR 75.370(c)(1), the district manager notifies the operator in writing of the approval or denial of approval of a proposed ventilation plan or proposed revision. A copy of this notification must be sent to the representative of miners by the district manager.

MSHA assumes that mines with 1–19 employees will receive 2 such notifications from MSHA each year, while mines with 20 or more employees will receive 4 such notifications. MSHA estimates that a clerical employee earning \$34.66 per hour will take 15 minutes to send a copy of this notification to the representative of miners for both proposed ventilation plans (only new mines: 6 percent of underground coal mines, equal to 4

mines with 1–19 employees, 9 mines with 20–500 employees, and 1 mine with more than 500 employees) or proposed revision (all underground coal mines).

Contractor Labor Cost

Under 30 CFR 75.370, mine operators must submit a proposed ventilation plan in writing to the District Manager for approval and that plan must be reviewed by MSHA every 6 months. However, once a ventilation plan is approved, the operator needs to submit only the revised pages, sketches, and drawings of the plan when proposing revisions, unless the District Manager requests in writing that the mine operator submit a new fully revised plan. The operator must update the plan as often as necessary to ensure that the plan is suitable to current conditions in the mine.

Mines with 1–19 employees will generally contract out for this service. MSHA estimates that under the proposed rule 6 percent of these mines (4) will submit a new ventilation plan and all mines with 1–19 employees (70) will submit 2 updates annually. MSHA further estimates that new plans will require 8 hours each, revised plans will require 4 hours each, and 3 maps will require 1 hour each. MSHA estimates that these tasks will be carried out by a contractor equivalent to a mine supervisor, earning \$79.76 per hour.

In addition, 3 copies of the mine ventilation map must be submitted annually or with each update (the assumption is that they will be submitted twice annually), including supplemental information listed in 30 CFR 75.372, requiring a total of 30 minutes. MSHA estimates that this task will be carried out by a contractor equivalent to a clerical employee, earning \$34.66 per hour.

This proposed rule would result in a reduction of annual recordkeeping cost to respondents from \$66,394 to \$34,473.

Copying and Postage Costs

MSHA estimates that under the proposed rule 6 percent of underground coal mine operators (4 mines with 1–19 employees, 9 mines with 20–500 employees, and 1 mine more than 500 employees) will create new ventilation plans each year. Under 30 CFR 75.370(a)(2), underground coal mines may revise approved ventilation plans. Additionally, MSHA estimates that under the proposed rule underground coal mines with 1–19 employees will revise and submit their ventilation plans to MSHA twice each year, and mines with 20 or more employees will revise and submit their ventilation to MSHA

plans 4 times each year. On average, MSHA estimates that a new plan or plan revision will be three pages. Copying will cost \$0.15 per page and \$1.00 for postage, for a total cost of \$1.45 per new plan or plan revision.

Under 30 CFR 75.370(a)(3)(i) and (f)(1), underground coal mine operators that revise their ventilation plans are required to notify the miners’ representative at least 5 days prior to submission of a mine ventilation plan revision and, if requested, provide a copy of the revisions to the miners’ representative under 30 CFR 75.370(a)(3)(i) and (f)(1). Under the proposed rule MSHA assumes that a copy of the revisions will always be requested. The number of copies provided equals the number of revisions noted above. MSHA estimates that the cost of copying will be \$0.45 for three pages.

Under 30 CFR 75.370(a)(3)(iii) and (f)(3), underground coal mine operators that revise their ventilation plans must post a copy of the revisions of the mine ventilation plan under 30 CFR 75.370(a)(3)(iii) and (f)(3). The number of postings is equal to the number of revisions noted above. MSHA estimates that the cost of copying will be \$0.45 for three pages.

This proposed rule would result in a reduction of annual recordkeeping cost to respondents from \$3,472 to \$1,819.

This proposed rule would result in a reduction in information collection costs. The number of annual respondents remains unchanged at 225, the number of annual responses would decrease from 2,499 to 957, the annual burden hours would decrease from 11,056 to 5,614 hours, and the annual recordkeeping cost to respondents would decrease from \$69,865 to \$36,292.

9–2. Mine Ventilation Plan Contents for Diesel-Powered Equipment (30 CFR 75.371)

Under 30 CFR 75.371(f), (j), (r), (kk), (ll), (mm), (nn), (oo), and (pp), certain information required in 30 CFR 75.325 and 70.1900 must be recorded in the mine operator’s ventilation plan as required by 30 CFR 75.370. MSHA estimates that under the proposed rule 15 mines annually will need to provide and record certain information with ventilation plans under 30 CFR 75.325 and 70.1900. MSHA estimates that the time required to record the additional information in the ventilation plan will be 15 minutes. The information is recorded by a mine supervisor earning \$79.76 per hour.

This proposed rule would result in a reduction in information collection

costs. The number of annual respondents would decrease from 29 to 15, the number of annual responses would decrease from 29 to 15, the annual burden hours would decrease from 7 to 4 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0.

9–3. Miner Notification and Copies of Ventilation Plan Revisions (30 CFR 75.370(a)(3) and (f))

Under 30 CFR 75.370(a)(3)(i) and (f)(1), underground coal mine operators are required to notify the miners' representative at least 5 days prior to submission of a mine ventilation plan or plan revision for MSHA approval and, if requested, provide a copy of the proposed and approved revisions to the miners' representative. Under the proposed rule MSHA assumes that a copy of the plan or plan revisions will be requested each time they are submitted. MSHA assumes underground coal mines with 1–19 employees will revise and submit their ventilation plans to MSHA twice each year, and mines with 20 or more employees will revise and submit their ventilation to MSHA plans 4 times each year. The number of copies of new plans provided to miners' representatives is estimated to be 6 percent of underground coal mines (4 mines with 1–19 employees, 9 mines with 20–500 employees, and 1 mine with more than 500 employees). MSHA estimates that it takes a clerical employee, earning \$34.66 per hour, 15 minutes to notify and provide a copy of the plan or plan revisions.

Under 30 CFR 75.370(a)(3)(iii) and (f)(3), underground coal operators must post a copy of the revisions of the mine ventilation plan. The number of postings is equal to the number of new plans and plan revisions, including ones created by contractors: 6 percent of all underground coal mines for new plans (4 mines with 1–19 employees, 9 mines with 20–500 employees, and 1 mine with more than 500 employees) and 100 percent of all underground coal mines, including new mines, for revised plans (2 times per year in mines with 1–9 employees and 4 times per year in mines with at least 20 employees). MSHA estimates that it takes a clerical employee earning \$34.66 per hour 15 minutes to post a copy of the plan or plan revisions to the mine ventilation plan.

This proposed rule would result in a reduction in information collection costs. The number of annual respondents would remain unchanged at 225, the number of annual responses would decrease from 1,548 to 253, the annual burden hours would decrease

from 387 to 63 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0.

10. Mechanical Escape Facilities (30 CFR 75.382)

Under 30 CFR 75.382(c), mines employing mechanical escape facilities must conduct a weekly examination to ensure that the facility is in proper operating condition. Under 30 CFR 75.382(g), mine operators are required to have a certified person certify by date, time, and initials, that the examination was conducted. It is estimated that 201 such facilities are in use at mines with 20 or more employees operating 52 weeks per year and that the certification will take 1 minute. The certification can be conducted by a certified person earning \$62.39 per hour.

This proposed rule does not impact this information collection cost. The number of annual respondents is 201, the number of annual responses is 10,452, the annual burden hours is 174, and the annual recordkeeping cost to respondents is \$0.

Summary of the Collection of Information

Under the proposed rule, the estimated number of respondents, responses, burden hours and recordkeeping costs to respondents would decrease from the currently approved information collection request. The reduction in information collection costs comes from removing the requirement of revising ventilation plans at the discretion of the District Manager.

Affected Public: Businesses or For-Profit.

Estimated Number of Respondents: 225 (0 due to this proposed rule).

Frequency: On occasion.

Estimated Number of Responses: 1,908,126 (– 2,852 due to this proposed rule).

Estimated Number of Burden Hours: 144,904 (– 5,770 due to this proposed rule).

Estimated Recordkeeping Costs to Respondents: \$36,292 (– \$33,574 due to this proposed rule).

D. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the

States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOL has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a

regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this proposed rule according to UMRA and determined that the proposed rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on Agency actions that would significantly affect the quality of the environment; unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the proposed rule in accordance with NEPA requirements and the Department of Labor’s NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this proposed rule would not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor provided an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family

Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOL has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this proposed rule under the OMB and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13175

E.O. 13175, “Consultation and Coordination With Indian Tribal Governments” 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have “tribal implications.” This proposed rule does not have “tribal implications” because it will not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or

use. MSHA has reviewed this proposed rule for its energy effects. For the energy analysis, this proposed rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy” 90 FR 8353 (Jan. 29, 2025); E.O. 14192, “Unleashing Prosperity Through Deregulation” 90 FR 9065 (Feb. 6, 2025); and the Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis” 90 FR 8245 (Jan. 28, 2025). This proposed rule is expected to be an E.O. 14192 deregulatory action.

List of Subjects in 30 CFR Part 75

Coal, Mine safety and health, Reporting and recordkeeping requirements, Underground coal mines, Ventilation.

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA proposes to amend chapter I of title 30 of the Code of Federal Regulations as follows:

SUBCHAPTER O—COAL MINE SAFETY AND HEALTH

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, 813(h), 957.

Subpart D—Ventilation

- 2. In § 75.371, revise the introductory text to read as follows:

§ 75.371 Mine ventilation plan; contents.

The mine ventilation plan shall contain the information described below:

* * * * *

James P. McHugh,

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

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