DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 49 and 75

RIN 1219–AB53

Mine Rescue Teams

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

ACTION: Proposed rule; notice of public hearings; close of comment period.

SUMMARY: The proposed rule would revise MSHA's existing standards for mine rescue teams for underground coal mines. It would strengthen training requirements and address composition, availability, and certification requirements for coal mine rescue teams. This proposed rule would implement the provisions of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) to improve overall mine rescue service; improve mine emergency response time; improve mine rescue team effectiveness; and increase the quantity and quality of mine rescue team training.

DATES: All comments must be sent on or before November 9, 2007. MSHA will hold four public hearings on October 23, October 25, October 30, and November 1, 2007. Details about the public hearings are in the ''Supplementary Information'' section of this document.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB53'' and may be sent to MSHA 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.* Include ''RIN 1219–AB53'' in the subject line of the message.

(3) *Facsimile:* 202–693–9441. Include ''RIN 1219–AB53'' 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. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Information Collection Requirements: Comments concerning the information collection requirements of this proposed rule must be clearly identified with ''RIN 1219–AB53'' and sent to both the Office of Management and Budget (OMB) and MSHA. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for MSHA.

Docket: 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. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Mailing List: 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* under the *Mailing List* link.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at *silvey.patricia@dol.gov* (internet e-mail), 202–693–9440 (voice), or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

Outline of the Preamble

This outline will assist the mining community in finding information in this preamble.

I. Introduction

The Mine Improvement and New Emergency Response Act of 2006 became effective on June 15, 2006 (MINER Act). The goal of the MINER Act is ''to improve the safety of mines and mining.'' To accomplish this goal, the MINER Act includes provisions to improve mine emergency response time, improve mine rescue team effectiveness, and increase the quantity and quality of mine rescue team training.

Section 4 of the MINER Act requires MSHA to publish regulations on mine rescue teams by December 2007. Because the mine rescue team provisions contained in section 4 of the MINER Act apply only to underground coal mines, this proposed rule would affect those mines and the mine rescue teams that cover them.

Public Hearings

MSHA will hold four public hearings concerning the proposed rule. The hearings will be held as follows:

Date	Location	Contact
October 23, 2007, 9 a.m. to 1 p.m.	Little America Hotel, 500 South Main Street, Salt Lake City, UT 84101	801–596–5700
October 25, 2007, 9 a.m. to 1 p.m.	Four Points by Sheraton Lexington, 1938 Stanton Way, Lexington, KY 40511	859–259–1311
October 30, 2007, 9 a.m. to 1 p.m.	Charleston Civic Center, West Virginia Room 105, 200 Civic Center Drive, Charleston, WV 25301.	304–345–1500
November 1, 2007, 9 a.m. to 1 p.m.	Sheraton Birmingham Hotel, 2101 Richard Arrington Boulevard, North Birmingham, AL 35203.	205–324–5000

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations to the hearing panel. Requests to speak at a hearing should be made at least 5 days prior to the hearing date. Requests to speak may be made by telephone (202–693–9440), facsimile (202–693–9441), or mail (MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939). Any unallocated time at the end of each hearing will be made available to persons making same-day requests to speak.

The presiding official may limit presentations and exclude irrelevant or unduly repetitious material and questions to ensure the orderly progress of the hearings. The hearing panelists may ask questions of speakers. Speakers and other attendees may present written information to the MSHA panel for inclusion in the rulemaking record. MSHA will accept post-hearing written comments and data for the record from any interested party, including those not presenting oral statements, until the close of the comment period on November 9, 2007.

The hearings will be conducted in an informal manner. Formal rules of evidence and cross examination will not apply. MSHA will make transcripts of the hearings, post them on MSHA's Web site *http://www.msha.gov,* and include them in the rulemaking record.

II. Statutory and Rulemaking Background

In accordance with section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act), MSHA issued standards in 30 CFR part 49 for mine rescue teams in underground coal and metal and nonmetal mines (45 FR 47002, July 11, 1980). Part 49 contains requirements addressing the three essential elements of effective mine rescue teams: (1) Ready availability; (2) proper equipment; and (3) basic levels of skills and training.

After several underground coal mine disasters in 2006, Congress passed and the President signed the MINER Act. Section 4 of the MINER Act requires that the Secretary issue regulations for mine rescue teams by December 2007. The MINER Act also requires that any new standards not waive training requirements for existing teams.

III. Section-by-Section Analysis

The MINER Act requires underground coal mine operators to use mine rescue teams that meet specific requirements for certification, composition, availability, and training. As specified by the MINER Act, MSHA is proposing additional standards for mine rescue teams for underground coal mines.

A. Technical Amendments to Existing Standards

This proposed rule would make no substantive change to requirements for mine rescue teams at underground metal and nonmetal mines. MSHA is proposing the following non-substantive organizational changes to the existing standards.

- For clarity, MSHA proposes to add a heading designating the existing standards as *Subpart—A—Mine Rescue Teams for Underground Metal and Nonmetal Mines.* This proposed rule would make no changes to §§ —49.1 through 49.9.
- MSHA proposes to delete *§ 49.10 Effective date.* The effective date language is obsolete.

B. Subpart B—Mine Rescue Teams for Underground Coal Mines; Amendments to Existing Requirements

MSHA is proposing a new subpart B that would contain all the standards applicable to mine rescue teams for underground coal mines. Subpart B would contain the existing requirements renumbered as §§ 49.11 through 49.19, with modifications to achieve the goals of the MINER Act and to address the unique conditions present in anthracite coal mines. The proposal reserves § 49.14 because it is not applicable to underground coal mines.

In addition, to address the new MINER Act provisions, subpart B contains the following five new standards:

§ 49.20 Requirements for all coal mines.
§ 49.30 Requirements for small coal mines.
§ 49.40 Requirements for large coal mines.
§ 49.50 Certification of coal mine rescue teams.
§ 49.60 Requirements for local mine rescue contests.

1. New Subpart B and the Reorganization of Part 49

MSHA requests comments on the proposed re-organizational change to 30 CFR part 49. MSHA specifically solicits comments on the approach taken in this proposal, that is, retaining all existing standards as a separate subpart A applicable to underground metal and nonmetal mines and creating a new separate subpart B containing existing standards and proposed new MINER Act provisions for underground coal mines. The Agency also is considering an alternative that would retain the existing standards in subpart A, applicable to all underground mines, and add a new subpart B, applicable only to underground coal mines, to address MINER Act requirements.

MSHA also is requesting comments on whether this proposed rule will result in different approaches to providing mine rescue services and, if so, what those approaches would be. The Agency believes that the new requirements in the MINER Act might result in providers of mine rescue services seeking alternative methods of providing these services. This issue will be discussed in more detail later in the preamble.

2. Section 49.11 Purpose and Scope

MSHA proposes to add the phrase, ''as amended by the Mine Improvement and New Emergency Response Act of 2006,'' to update *§ 49.11 Purpose and scope.* This change is a technical amendment. The proposed rule also would number the existing paragraph (a) and add a new paragraph (b). Paragraph (b) would contain a table to provide mine operators a quick visual summary of their new compliance obligations under the MINER Act. As noted in the table (Table 49.11):

> Team members of State-sponsored teams who are full-time State employees whose primary job duties include (1) inspecting underground mines for compliance with State safety laws or (2) training mine rescue teams or (3) conducting mine safety training or (4) other similar duties that would enhance their mine rescue knowledge may substitute their regular job experience for 50 percent of the training requirements (annual training which includes mine rescue contests and mine-site training) for non-State employee mine rescue team members.

MSHA requests comments on this provision, particularly on allowing experience to substitute for 50 percent of the training requirements.

3. Section 49.12(b) Alternative Composition Requirements for Mine Rescue Teams for Anthracite Coal Mines

Existing § 49.2(b) requires mine rescue teams to have five members and one alternate. MSHA is proposing this requirement for underground coal mines as § 49.12(b) and would add a provision specifically to address underground anthracite coal mines that have no electrical equipment at the face or working section.

Because mining methods and conditions in underground anthracite coal mines are unique, anthracite mine operators have been granted petitions for modification under section 101(c) of the Mine Act allowing mine rescue teams covering these mines to be

comprised of three members each and one alternate team member to serve both teams. In support of these petitions, anthracite mine operators cited the following:

- Most anthracite mines are not highly mechanized. Production and maintenance work is done largely by hand, using simple hand tools and equipment. Anthracite mines may have no underground electric power or may have power only at the bottom of the hoist slope.
- Typically, extraction occurs in a single face or production area. Many anthracite mines are developed only short distances underground, rarely more than several thousand feet.
- Anthracite seams dip steeply and are often near vertical. Openings are narrow and constricted. Access between levels is by means of hardwood ladders through small, steeply pitched openings.
- The hoist bucket, used to transport personnel, typically can accommodate no more than four persons.
- Rock dusting is not required because of the extremely low combustibility of anthracite coal, caused by its low volatile content.
- The average underground anthracite mine employs four miners.
- In the past 20 years, no more than one mine rescue team has been needed in the anthracite region for rescue and recovery activities. Further, no more than three rescue team members have entered a working place at the same time during such activities.

In accordance with section 101(c) of the Mine Act, MSHA investigated each petition of § 49.2(b) from these small, underground anthracite coal mines and made the following finding:

> Considering this confirmation and the narrow width and constricted openings, the limited capacity of hoist conveyances, the pitched seam, the short travel distance from the slope bottom to the working face, and the low combustibility of anthracite coal, petitioner's alternative method of two mine rescue teams with three members each is as safe as maintaining two teams of five members. As such, it achieves the result of the standard to ensure the availability of mine rescue capability for purposes of emergency rescue and recovery.

On the basis of the petitions and the findings of its investigations, MSHA granted 22 petitions for modification of § 49.2(b) that allow anthracite coal mines to operate under the approved alternate method. Currently, 10 underground anthracite coal mines operate under this approved alternative method.

The proposed rule would allow anthracite coal mines, which have no electrical equipment at the face or working section, to have two mine rescue teams consisting of at least three members per team and one alternate shared between both teams. This proposed provision is consistent with the action taken in existing petitions for modification.

4. Section 49.12(c) Alternative Experience Requirement for Members of Contract Mine Rescue Teams

Existing § 49.2(c) requires mine rescue team members to have been employed in an underground mine for at least 1 year within the past 5 years. MSHA is proposing this requirement for underground coal mines as § 49.12(c) and would add a provision specifically to implement the requirement in the MINER Act for members of contract mine rescue teams. The MINER Act requires that members of contract mine rescue teams have ''a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.''

The proposed rule would retain the existing provision that, for the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground can use that time to meet the experience requirement. MSHA also would waive the underground experience requirement for those miners on a mine rescue team on the effective date of the rule.

5. Section 49.12(f) Available Within 1 Hour Ground Travel Time From the Mine Rescue Station

Existing § 49.2(f) requires that no mine served by a mine rescue team shall be located more than 2 hours ground travel time from the mine rescue station with which the rescue team is associated. MSHA is proposing this requirement for underground coal mines as § 49.12(f). Proposed § 49.12(f) revises existing § 49.2(f) to include the MINER Act requirement that the mine rescue team be available at the underground coal mine within 1 hour ground travel time from the mine rescue station. This change from 2 hours to 1 hour ground travel time between the mine and its mine rescue station is intended to ensure that a team will arrive at the mine more quickly in case of a mine emergency.

MSHA projects that the availability of a team within 1 hour ground travel time from the station to the covered mine would result in the establishment of 28 additional mine rescue stations. This estimate is based on the general locations of mines and mine rescue stations, without consideration of road or traffic conditions, and the experience and expertise of MSHA's technical staff in the Office of Coal Mine Safety and Health. The Agency solicits comment on whether some existing stations may need to be moved to meet this requirement. MSHA also solicits comment on whether mine operators will encounter any difficulties in meeting the requirements of the proposal. MSHA specifically requests information, from members of the mining community affected by this provision, on the number of additional mine rescue teams and stations that would be needed to comply with this new requirement. MSHA is particularly interested in: (1) How compliance would be achieved; (2) location of new rescue stations; (3) make-up and composition of new teams; and (4) any other information that might be useful. MSHA is also interested in feasibility information, including economic feasibility. The Agency requests that commenters include specific information, such as cost or technical capability, in support of their positions.

6. Section 49.13 Alternative Mine Rescue Capability for Small and Remote Mines

Existing § 49.3 provides alternative capability for small and remote mines and is proposed as § 49.13 for underground coal mines. Proposed paragraphs (a) and (c)(3) would be revised to be consistent with the 1-hour requirement of the MINER Act. These provisions would require 1 hour ground travel time from the mine rescue station to the covered mine and that the operator's application include the total underground employment of any mines within 1 hour of the operator's mine. Proposed paragraph (c)(2) would be revised to require that the operator include the location of the mine rescue station serving the mine.

7. Section 49.14 [Reserved]

Existing § 49.4 provides alternative mine rescue capability for special mining conditions. The proposed rule would not include this provision in subpart B because it is not applicable to underground coal mines.

8. Section 49.15(a) Mine Rescue Station

Existing § 49.5(a) requires operators of underground coal mines to designate, in advance, the location of the mine rescue station serving the mine, except where alternative compliance is permitted.

Proposed § 49.15(a) would require every operator of an underground mine to designate, in advance, the location of

the mine rescue station serving the mine. The proposal would delete the exception related to alternative compliance. This proposed provision is consistent with the goals of the MINER Act.

9. Section 49.16(a) Alternative Equipment Requirement for Anthracite Mines

Existing § 49.6(a) requires mine rescue stations to have specific amounts of equipment that are appropriate for two mine rescue teams composed of five members and one alternate. MSHA is proposing this requirement for underground coal mines as § 49.16(a) and adding a provision specifically to address underground anthracite coal mines that have no electrical equipment at the face or working section.

Because MSHA allows mine rescue teams for underground anthracite coal mines, which have no electrical equipment at the face or working section, to have three members for each team and one alternate to serve both teams, anthracite mine operators have submitted petitions for modification under section 101(c) of the Mine Act to MSHA to allow the mine rescue station to maintain eight self-contained oxygen breathing apparatus and eight cap lamps and a charging station, rather than twelve of each as required by the existing standard.

In accordance with section 101(c) of the Mine Act, MSHA investigated each petition and made the following finding:

> MSHA's investigation found that reducing the quantity of equipment required to be purchased and maintained at the anthracite mine rescue station to a quantity consistent with the requirements of granted modifications currently in effect, which allow anthracite mines to be covered by two mine rescue teams of three members each and an alternate, will provide the same measure of protection to the miners.

On the basis of these petitions and the findings of its investigation, MSHA granted 17 petitions for modification of § 49.6(a)(1) and (5) that allow each mine rescue station for anthracite coal mines to have eight self-contained oxygen breathing apparatus, eight cap lamps, and a charging rack, as the approved alternative method. Currently, 10 underground anthracite coal mines operate under this approved alternative method.

Proposed § 49.16(a) would require that mine rescue stations covering anthracite coal mines that have no electrical equipment at the face or working section have at least the amount of equipment appropriate for the number of mine rescue team members, consistent with the action taken in existing petitions for modification. For three-person teams and one alternate, this would mean seven self-contained oxygen breathing apparatus and seven cap lamps; equipment required per team rather than per team member, such as gas detectors, may not be reduced.

10. Section 49.18(b) Training for Mine Rescue Teams

Under the existing standard, after completion of the initial training, all team members must ''receive at least 40 hours of refresher training annually. This training shall be given at least 4 hours each month, or for a period of 8 hours every 2 months.'' For underground coal mines, this training includes training requirements in existing § 49.8(b)(1) through (b)(5), which would be redesignated as § 49.18(b)(1) through (b)(5) in this proposal.

The proposed rule would add a new paragraph (b)(6), which is consistent with the goals of the MINER Act. It would require all mine rescue team members, at least once during each 12-month period, to participate in training that includes wearing mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment. While some mine operators or training facilities may use actual smoke, operators can use a nontoxic smoke, such as theatrical smoke, which is harmless. An equivalent environment could include, for example, training with glasses or face shields that reduce vision and simulate smoke. This requirement would assure that mine rescue team members are trained in realistic conditions.

This proposal also would increase the existing annual training requirement from 40 to 64 hours, given at 8 hours every 2 months. This increase is in response to requirements in the MINER Act for additional mine rescue team training.

The MINER Act requires that team members be familiar with operations of covered mines, have knowledge of the operation and ventilation of covered mines, and train at covered mines. The MINER Act requires mine rescue team members to participate in two mine rescue contests each year. MSHA has determined that an additional 24 hours training per year is necessary to cover training requirements in the MINER Act, including participation in two mine rescue contests. Therefore, a minimum of 64 hours of refresher training is necessary to accommodate the existing and new MINER Act mine rescue team training requirements.

MSHA has reviewed the Mine Safety Technology and Training Commission (Commission) report on *Improving Mine Safety Technology and Training: Establishing U.S. Global Leadership* (2006). This report contained a number of recommendations addressing the training of mine rescue teams. One recommended that the ''minimum amount of training required of mine rescue team members should be increased to eight hours per month,'' for a total of 96 hours annually. MSHA's proposal takes the Commission's recommendation into consideration.

Although the proposal includes 64 hours of training, MSHA requests comment on the proposed 64-hour training requirement. Specifically, the Agency is interested in comment pertaining to whether the proposed amount should be increased or decreased in the final rule. Commenters should specifically address: the rationale for the amount of training; the type of training; the number of hours of training that should be required for specific activities; and the impact of such a requirement on the mining industry's ability to form additional mine rescue teams or retain current mine rescue team members.

Proposed paragraph § 49.18(d) has been revised to be consistent with the goals of the MINER Act by requiring the training courses to be conducted by instructors who have been employed in an underground mine and have had a minimum of 1 year experience as a mine rescue team member or mine rescue instructor within the past 5 years. This requirement is necessary to ensure that mine rescue team members are instructed by persons with practical mine rescue experience. Mine rescue team instructors who have received MSHA approval prior to the effective date of the final rule would not have to meet these new requirements.

C. Subpart B-Mine Rescue Teams for Underground Coal Mines; Additional MINER Act Provisions

Section 4 of the MINER Act requires the following:

- MSHA must establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams. MSHA is proposing new § 49.50 to address the criteria for certifying the qualifications of coal mine rescue teams.
- Underground coal mine operators must have an employee knowledgeable in mine emergency response who is employed at the mine on each shift and make available two certified mine rescue teams whose members are available at the mine within 1 hour ground travel time from the mine rescue

station. MSHA is proposing changes to existing § 75.1501(a) to address the requirement for an ''employee knowledgeable in mine emergency response.''

• Mine rescue team members must be knowledgeable, experienced, and trained; participate in two mine rescue contests per year; and participate in mine rescue training at each covered mine. MSHA is proposing §§ 49.30 and 49.40 to address these qualification and training-related requirements for small and large underground coal mines, respectively. In addition, MSHA is proposing § 49.60 to address requirements for a local mine rescue contest.

1. Section 75.1501(a) Person Knowledgeable in Mine Emergency Response

The MINER Act requires the operator to have a person employed on each shift who is knowledgeable in mine emergency response. The responsible person required by existing 30 CFR 75.1501 would meet some of the requirements of this provision. Existing § 75.1501(a) requires that—

(a) For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion or gas or water inundations. The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, and the mine emergency evacuation and firefighting program of instruction.

MSHA is proposing to amend § 75.1501(a) to require that the responsible person also have current knowledge about the mine's Emergency Response Plan and Mine Rescue Notification Plan. Under section 2 of the MINER Act, all underground coal mine operators must adopt an Emergency Response Plan, which must be approved by MSHA. MSHA provides guidance to mine operators for preparing Emergency Response Plans in a Program Policy Letter (PPL P06–V–10, 10/24/2006), and in the Program Information Bulletin on Breathable Air (PIB 07–03, 02/08/2007). The PPL and PIB are available on the MINER Act Single Source Page at *http://www.msha.gov.*

MSHA is also proposing to require that the responsible person be trained annually in mine emergency response coordination and communication. In the event of a mine emergency, the responsible person must be able to quickly initiate the Emergency Response Plan. New requirements have been added to existing § 75.1501 to ensure that the responsible person understands and has knowledge of the procedures and steps necessary to effectively respond to a mine emergency. The responsible person must receive training in the following: organizing a command center; directing firefighting personnel; deploying firefighting equipment; directing mine rescue personnel; establishing a fresh air base; deploying mine rescue teams; providing for mine gas sampling and analysis; establishing security; initiating an emergency mine evacuation; contacting emergency personnel; and communicating appropriate information related to the emergency. This additional training will enhance the responsible person's knowledge in mine emergency response and will assure appropriate actions are taken in emergency situations.

The proposed rule is performance-oriented and, therefore, does not prescribe the duration of this training. Instead, the proposal allows the operator to provide training appropriate to the unique conditions of the mine and the experience of the miner being trained. The proposal includes topics required to be addressed in the training. MSHA expects the operator to assure that the responsible person is adequately prepared to respond appropriately to mine emergencies. Consistent with other MSHA training requirements, the proposed rule would require that the operator certify by signature and date after each responsible person has completed the training and that the certification be kept at the mine for 1 year.

2. Section 49.20 Requirements for All Coal Mines

Proposed § 49.20 would address MINER Act provisions that are the same for all underground coal mine rescue teams, regardless of the size of the operation. It would require the operator to make available two certified mine rescue teams whose members are familiar with the operations of each coal mine covered by the mine rescue team, participate annually in two local mine rescue contests, and train at the covered mines. The proposed rule contains criteria for the certification of mine rescue teams for underground coal mines as § 49.50 and requirements for a local mine rescue contest as § 49.60 of this subpart.

a. Section 49.20(a)(1) Familiarity with Operations of Covered Mines.

MSHA considers ''familiarity'' with the operations of the covered mine as first-hand experience of the underground mining conditions and operations at a particular mine. MSHA expects that team members who work at the covered mine would be familiar with that mine's conditions and operations through participation in mine rescue training and quarterly mine evacuation drills at the mine. Team members who do not work at the covered mine would need to become familiar with its operations by participating in mine rescue training at the mine. This training would include: identifying the designated escapeways, intakes, returns, the ventilation system, locations and types of fire fighting equipment, the communication system, mine-wide monitoring system, and the type of transportation equipment used at the mine. Also, team members would need to be familiar with the location of the mine rescue station, stored SCSRs, breathable air, hardened rooms, and other emergency response equipment or supplies.

MSHA recognizes that the amount of time required to familiarize teams with a particular mine will vary, depending on mining conditions. For example, more complex mines and newer team members may require more time. For this reason, MSHA is not proposing a minimum amount of time for mine rescue team training underground at covered mines. MSHA expects the operator to evaluate each team member to determine the amount of training necessary for that person to become familiar with operations at the covered mine.

b. Section 49.20(a)(2) Participation in Two Local Mine Rescue Contests.

The MINER Act adds a new training requirement that mine rescue team members must participate in two local mine rescue contests annually. Mine rescue contests are designed to sharpen skills and test the knowledge of team members who would be called on to respond to a mine emergency. Historically, mine rescue contests have provided individuals with practical, hands-on experience and are one of the most effective forms of training. Some team members who are regular participants in contests have been called on in recent years to perform actual mine rescue and recovery work. They have done so successfully and training exercises, such as mine rescue contests, were essential to maintaining a well-prepared team.

For the purpose of this requirement, MSHA would consider a two-day contest, with a different competition and simulated mine rescue exercise on each day, as two contests if the team participated on both days. MSHA

expects that this would minimize costs for many teams, while providing necessary training, because the team would have travel costs for only one trip, rather than two trips. Another potential benefit is that this provision would minimize team members'' absence from their mines where they are available to respond in the event of an emergency.

c. Section 49.20(b) Requirements for Types of Mine Rescue Teams

The MINER Act introduces new terms to describe different types of mine rescue teams: mine-site, composite, contract, and State-sponsored teams.

- A mine-site team is made up of team members who work at the mine and train at least annually at the covered mine.
- A composite team provides coverage for multiple mines and has team members which include at least two active employees from each covered mine who have knowledge of the operations and ventilation of the covered mine and train semi-annually at the covered mine. A composite team can be a multiple employer team, a team that provides coverage for multiple mines owned by the same operator, or a State-sponsored team.
- A contract team is a mine rescue team that is provided by an arrangement with another coal mine or with a third party. Members of a contract team mine must have at least 3 years underground coal mine experience within the 10-year period preceding their employment on the contract mine rescue team. Contract teams would have to have knowledge of the operations and ventilation of the covered mine and train quarterly at a covered large mine and semi-annually at a covered small mine. Although the MINER Act uses the phrase ''commercial mine rescue team provided by contract,'' the proposal refers to these teams as contract teams provided through an arrangement with another mine or a third party.
- A State-sponsored team is made up of State employees who train at least annually at the covered mine.

MSHA invites comment regarding the types of State relationships with teams and team members that would qualify the team members as ''employees'' and the team as ''State-sponsored.'' MSHA invites comment regarding the types of teams that are available to mines having 36 or fewer employees who could qualify to be a mine rescue team member and whether these mines should be able to use other types of teams, such as teams consisting of one miner per covered mine.

d. Knowledge of Operations and Ventilation at the Covered Mine

The MINER Act requires members of mine rescue teams covering small underground coal mines, and composite and contract teams covering large underground coal mines, to have knowledge of the operations and ventilation at each covered mine. MSHA expects that this requirement would be met when each team member reviews the mine's ventilation plan, mine maps, roof or ground control plans, and mine emergency evacuation plans. MSHA also expects that team members who work at the mine would generally meet this requirement because they participate in the quarterly mine emergency evacuation training and drills.

e. Mine Rescue Team Training at Each Covered Mine

The MINER Act requires members of mine rescue teams to participate in training at each covered mine. MSHA interprets this to mean that at least one of the training sessions must be conducted underground at the covered mine. The number of training sessions required at the covered mine would depend on the mine size and type of mine rescue team. In accordance with the MINER Act, the Agency includes the following chart to illustrate the required number of training sessions at each covered mine each year by mine size and type of mine rescue team.

TABLE 1.—FREQUENCY OF TRAINING FOR MINE RESCUE TEAM MEMBERS AT EACH COVERED UNDERGROUND COAL MINE EACH YEAR

Type of team	Mine size	
	Large (>36)	Small (≦36)
Mine Site	1 (annually)	2 (semi-annually).
Composite	2 (semi-annually)	2 (semi-annually).
Contract	4 (quarterly)	2 (semi-annually).
State-sponsored	1 (annually)	2 (semi-annually).

MSHA notes that the MINER Act requires mine rescue teams servicing mines with 36 or fewer employees to train at each covered mine semi-annually. This requirement would appear to mean that mine-site teams and State-sponsored teams, which are required to train at large mines annually, would have to train at small mines semi-annually if they service small mines. Although it is unclear why this added burden is placed on small mines, MSHA included this provision, consistent with the MINER Act. MSHA invites comment regarding this matter. Commenters should explain any suggested alternatives, including supporting documentation and data. MSHA also requests comment on whether this training needs to be conducted underground at the covered mine.

f. Integration of Mine Rescue Team Training Requirements

As discussed earlier, the MINER Act requires two new categories of training for mine rescue team members: participation in mine rescue contests and participation in training at the covered mines. These additional requirements complement the existing training in § 49.8, proposed as § 49.18 for underground coal mine rescue teams. The existing standard requires training sessions underground every 6 months; and team members to wear breathing apparatus for a minimum of 2 hours every 2 months. MSHA anticipates that operators will integrate the new requirements, including mine rescue training at the covered mines, with these existing requirements.

3. Section 49.30 Requirements for Small Coal Mines

Proposed § 49.30 would be applicable to each underground coal mine that has 36 or fewer employees who could qualify to be a mine rescue team member. The MINER Act requires that members of mine rescue teams covering these small mines know the operations and ventilation of the mine.

4. Section 49.40 Requirements for Large Coal Mines

Proposed § 49.40 would be applicable to each underground coal mine that has more than 36 employees who could qualify to be a mine rescue team member. The MINER Act requires that the mine operator of a large mine designate either an individual mine-site team or a composite team as one of the two mine rescue teams. The second mine rescue team can be a mine-site, composite, contract, or State-sponsored team.

5. Section 49.50 Certification of Mine Rescue Teams

Section 4 of the MINER Act requires MSHA to establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams. It also requires each operator of an underground coal mine to designate two certified mine rescue teams. The proposed certification criteria include a certification statement, equipment and training requirements, and the frequency of certification. The proposal would require that a mine operator certify that each of the mine's two designated mine rescue teams meet the requirements of this section. To meet the proposed requirement, the mine operator must submit an annual certification statement to the District Manager. MSHA requests comments on other alternatives for certification of mine rescue teams.

MSHA is proposing that, to be certified, the mine rescue team must be available when miners are underground and within 1-hour ground travel time from the mine rescue station to the mine; team members must be physically fit, experienced working in an underground mine, and properly trained; and the mine rescue station must be adequately equipped. The criteria for these qualifications are contained in the existing and proposed standards. For ease of understanding, the Agency has developed a chart in which the proposed rule lists the criteria for annual certification of mine rescue teams by the section number of the existing and proposed standards in 30 CFR part 49. This chart is proposed as § 49.50, *Table–49.50: Criteria to Certify the Qualifications of Mine Rescue Teams.*

MSHA has developed certification forms that operators may use to assist them in complying with this section. These optional forms are attached as an appendix to this rule. MSHA would provide the forms in an electronic format and allow electronic filing. MSHA has posted the forms on its Web site at *http://www.msha.gov* for comment and would welcome any suggestions. MSHA would accept certification statements in all formats, both electronic and paper.

6. Section 49.60 Requirements for a Local Mine Rescue Contest

Coal mine rescue team members must participate in two local mine rescue contests annually. The proposed rule includes criteria for a local mine rescue contest. The proposed rule also requires that the mine operator provide information concerning the schedule of upcoming local mine rescue contests to the District Manager when requested. MSHA specifically requests comments on the following criteria for a local mine rescue contest:

- The contest must be conducted in the United States and use MSHA-recognized rules.
- The contest must include a minimum of three competing mine rescue teams.
- Team members must have the necessary equipment to participate in a simulated mine rescue exercise; participate in a simulated mine rescue exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback; and wear oxygen breathing apparatus.
- Contest judges must have completed annual training for mine rescue contest judges.

a. *Criteria for a Local Mine Rescue Contest.*

Contest Rules. MSHA-recognized rules are developed annually by the National Mine Rescue Contest Rules Committee, comprised of mine rescue associations and individuals from MSHA, State agencies, academia, and the mining industry. MSHA publishes these National rules on its Web site at *http://www.msha.gov/MineRescue/CONTEST* and gives training on them for any interested persons each year at the National Mine Health and Safety Academy. MSHA would allow contest organizers to use the National Mine Rescue Contest Rules and other rules recognized by MSHA. A consistent set of recognized rules would help mine rescue teams work together more efficiently and effectively when responding to a mine emergency.

Three Teams. In MSHA's experience, a mine rescue contest must have at least three teams competing to provide a meaningful competition and learning opportunity. Mine rescue contests are a vital element in improving mine rescue team expertise. They increase mine rescue skills, build team cohesiveness and trust, and broaden problem-solving abilities. Requiring a minimum of three teams would reduce the possibility of a competition between teams only from the same mine and promote competitions among teams in close geographic proximity.

Team Members. Even though participation in a mine rescue contest is considered a training exercise, team members must be prepared to compete as if the contest were a real mine emergency. Team members must have the necessary equipment to participate in a simulated mine rescue exercise. Participation in a simulated mine rescue exercise while being timed, observed, and judged provides a measure of stress. The mine rescue contest is an opportunity to test the team member's level of knowledge and skill under simulated mine emergency conditions. The ability to make correct decisions quickly, while under stress and wearing breathing apparatus, is a vital skill for each mine rescue team member to develop.

Judges. In order for judges to administer the mine rescue contest fairly and provide appropriate and meaningful feedback, judges should have a strong background in contest rules and critiquing team member performance. Each year, MSHA provides training at the National Mine Health and Safety Academy for MSHA, State, industry, mine rescue team personnel, simulated mine rescue exercise designers, and other interested parties. This training is provided under a train-the-trainer concept, thereby expanding the reach of the training. Persons attending this training are then qualified to provide training to judges at the local level. The training is titled, ''National Mine Rescue Rules and Interpretations Training.'' This training is also Web cast to Western Kentucky; Denver, Colorado; Birmingham, Alabama; and Price, Utah. This training also includes time for a question and answer discussion.

The Agency solicits comments on whether there should be a minimum amount of annual training prescribed for contest judges. In MSHA's experience, training on contest rules and interpretations provides the necessary background for evaluating and critiquing mine rescue team performance. MSHA is considering allowing attendance at this training to satisfy the requirement for annual training for judges. MSHA requests comments on this approach or whether some other training is more appropriate for mine rescue contest judges.

b. *Notifying MSHA.* The proposed rule requires mine operators to notify the appropriate District Manager, on

request, when and where their designated teams plan to participate in mine rescue contests. This notice would allow MSHA to attend the contest and provide assistance. MSHA could verify that the contest meets the requirements of § 49.60 and achieves its purpose to increase mine rescue skills, build team cohesiveness and trust, and broaden problem-solving abilities.

c. *Alternative to Participation in Local Mine Rescue Contests.*

This proposal allows alternatives to local mine rescue contests so long as the training provides equivalent skills development. Under the proposal, Mine Emergency Response Development (MERD) drills could count as equivalent training when the team participates in a realistic simulation exercise, such as fire and explosion drills, while wearing breathing apparatus. Other training that provides an equivalent realistic simulation exercise, such as fire and explosion drills, can substitute for participation in a local mine rescue contest. MSHA would allow actual underground participation in a rescue or recovery operation as a substitute for participation in a local mine rescue contest. MSHA requests comments on other alternatives to participation in local mine rescue contests.

IV. Preliminary Regulatory Economic Analysis

A. Executive Order 12866

Executive Order (E.O.) 12866 as amended by E.O. 13258 (Amending Executive Order 12866 on Regulatory Planning and Review) requires that regulatory agencies assess both the costs and benefits of regulations. To comply with E.O. 12866, MSHA has prepared a Preliminary Regulatory Economic Analysis (PREA) for the proposed rule. The PREA contains supporting data and explanation for the summary materials presented in this preamble, including the covered mining industry, costs and benefits, feasibility, small business impacts, and paperwork. The PREA is located on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM.* A printed copy of the PREA can be obtained from MSHA's Office of Standards, Regulations, and Variances at the address in the **ADDRESSES** section of this preamble.

Executive Order 12866 classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it has an annual effect on the economy of $100 million or more; creates a serious inconsistency or interferes with an action of another agency; materially alters the budgetary impact of entitlements or the rights of entitlement recipients; or raises novel legal or policy issues. Based on the PREA, MSHA has determined that the proposed rule would not have an annual effect of $100 million or more on the economy and that, therefore, it is not an economically ''significant regulatory action'' pursuant to section 3(f) of E.O. 12866. MSHA, however, has concluded that the proposed rule is otherwise significant under Executive Order 12866 because it raises novel legal or policy issues.

B. Population at Risk

The proposed rule would apply to 653 underground coal mines and cover 42,597 miners and 8,250 (non-office) contractors working at them. Table 2 shows a summary distribution of mines, underground employment, costs attributed to this proposal, and revenues for these underground coal mines.

TABLE 2.—SUMMARY DATA FOR UNDERGROUND COAL MINES

Mine size [A]	Number of mines	Total number of miners [B]	Number of employees [B] underground	Annual revenue (billions)	Annual cost (millions)	Cost per mine
1–19	220	2,255	1,952	$0.3	$0.7	$3,100
20–500	420	32,852	29,742	9.8	2.3	5,500
>500	13	7,490	6,503	3.0	0.1	7,300
All Mines	653	42,597	38,197	13.1	3.1	4,700

[A] Size based on total mine employment, excluding office workers.
[B] Does not include 8,250 (non-office) contractor employees, 4,096 of which work underground.

C. Costs

As shown in Table 3, MSHA estimates that the proposed rule would result in total yearly costs for the underground coal mining industry of approximately $3.1 million. Disaggregated by mine size, yearly costs would be $0.7 million (or approximately $3,100 per mine) for mine operators with fewer than 20 employees; $2.3 million (or about $5,500 per mine) for mine operators with 20–500 employees; and $0.1 million (or about $7,300 per mine) for mine operators with more than 500 employees. All cost estimates are presented in 2005 dollars.

Table 3: Summary of Total Yearly Cost of the Proposed Rule for Underground Coal Mine Operators

Requirement	Mine Size			Total Yearly Cost
	1-19	20-500	501+	
One Hour from Mine Rescue Station to Mine*	$317,530	$150,409	$0	$467,938
Mine Rescue Team Training	$205,932	$1,333,372	$50,719	$1,590,024
Mine Rescue Contests	$62,485	$503,349	$29,480	$595,315
Certification of Mine Rescue Teams	$7,175	$13,697	$424	$21,296
Responsible Person Training & Certification	$83,267	$317,930	$14,761	$415,958
Total	**$676,390**	**$2,318,758**	**$95,384**	**$3,090,531**

* Cost for 28 new mine rescue stations.

Specific to the mine rescue team proposed rule, MSHA has broken down total compliance costs for mines with 1–36 employees and mines with 37 or more employees. Of the $3.1 million total yearly cost of the proposed rule, underground coal mines with 1–36 employees would incur costs of approximately $1.3 million per year and underground coal mines with 37 or more employees would incur costs of approximately $1.8 million per year.

In addition, the proposed rule would impose costs on State-sponsored mine rescue teams. As shown in Table 4, the total yearly cost of the proposed rule for State-sponsored mine rescue teams would be about $132,000. Of this, $89,000 would be for training and $43,000 would be for participation in two local mine rescue contests.

Table 4: Summary of Total Yearly Cost of the Proposed Rule for State Mine Rescue Teams

Requirement	Mine Size			Total Yearly
	1-19	20-500	501+	
Mine Rescue Team Training	$40,394	$48,067	$988	$89,448
Mine Rescue Contests	$15,713	$26,362	$447	$42,522
Total	**$56,107**	**$74,429**	**$1,434**	**$131,971**

These cost estimates are based on a variety of key assumptions regarding the response of industry and States to the proposed rule: (1) 28 mine rescue stations would be added to the 92 stations currently serving underground coal mines; (2) an additional 56 mine rescue teams would be formed; (3) none of the existing 145 mine rescue teams would disband; and (4) the additional mine rescue teams would not impose any costs on mine operators other than those itemized in the PREA. In addition, although MSHA is aware that the requirements in the proposed rule may place some pressure on States to increase the number of State-sponsored mine rescue teams and stations, MSHA assumed no change in the existing provision of these services in response to the proposed rule. MSHA solicits comments on these and all other assumptions and data used in the PREA.

D. Benefits

The purpose of this proposed rule is to enhance the availability and effectiveness of mine rescue teams in the event of an emergency situation at an underground coal mine. Mine operators often rely on mine rescue teams to save miners during an underground emergency such as an explosion, fire, roof fall, or water inundation. In such a situation, the timely arrival of a properly-trained mine rescue team can sometimes mean the difference between life and death. In most instances, other types of rescue units, e.g., a rescue squad from the local fire department, are unlikely to have the specialized training and equipment to respond effectively to an emergency due to the hazardous nature of the underground coal mine environment.

A good mine rescue team will have knowledge and familiarity with the mine layout, including the location of working sections, mining equipment, fire-fighting equipment, first aid supplies, transportation, escapeways, and emergency shelters; know the mine's roof conditions and ventilation system; and have an established working relationship with mine management and among the team members. These factors provide for more efficient decision-making during an emergency and increased confidence in the personnel who implement these decisions.

MSHA has qualitatively determined that the proposed rule would make coal mine rescue teams better able to respond to emergencies when a quick response by rescue teams is vital to miners. The proposed rule would improve overall mine rescue service in three areas:

- It would improve mine emergency response time by requiring that mine rescue team members be available at the mine within 1 hour ground travel time from the mine rescue station.
- It would increase the quality and effectiveness of training by requiring team members to be familiar with the covered mines'' operations, participate in training at the covered mines, and participate in two local mine rescue contests.
- It would strengthen the requirements for knowledge and experience of mine rescue team

members by requiring them to have knowledge of the operations and ventilation of the covered mines and by requiring contract team members to have at least 3 years underground coal mine experience within the 10-year period preceding their employment on the contract team.

The proposed rule also would increase awareness of the mine operator by requiring the mine operator to provide two certified mine rescue teams and to have a person knowledgeable in mine emergency response on each shift. The proposal includes criteria for certifying the mine rescue teams and clarifies training requirements for the knowledgeable person.

Team members employed at a given mine are exceptionally knowledgeable in mine gases, ventilation, first aid, and other health and safety subjects as they apply generally and at that specific mine. Their level of mine rescue training, combined with their everyday presence during the normal work cycle, provides an added measure of safety for each worker at the mine.

V. Feasibility

MSHA has concluded that the requirements of the proposed rule are technologically and economically feasible.

A. Technological Feasibility

This proposed rule is not a technology-forcing standard and does not involve new scientific knowledge. The requirements of the rule involve training and purchase of equipment and a requirement that the mine rescue station be located closer, within 1 hour (rather than 2 hours) ground travel time to the covered mines. MSHA projects that this requirement would necessitate additional mine rescue stations and mine rescue teams. MSHA has concluded that the proposed rule is technologically feasible.

B. Economic Feasibility

The total cost of the proposed rule is approximately $3.1 million annually for all underground coal mine operators. These compliance costs are well under one percent of the yearly revenues of $13.1 billion for these underground coal mine operators. MSHA concludes that the amount of these costs supports its finding that the proposed rule is economically feasible. MSHA solicits comments on this issue.

VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA analyzed the impact of the proposed rule on small entities. Based on that analysis, MSHA notified the Chief Council for Advocacy, Small Business Administration (SBA), and made the certification under the Regulatory Flexibility Act at 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is presented in full in Chapter V of the PREA and in summary form below.

A. Definition of a Small Mine

Under the RFA, in analyzing the impact of a proposed rule on small entities, MSHA must use the Small Business Administration's (SBA's) definition for a small entity, or after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not established an alternate definition and is required to use the SBA definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also examined the impact of this proposed rule on underground coal mines with fewer than 20 employees, which MSHA has traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, the cost of complying with MSHA's proposed rule and the impact of the proposed rule on small mines will also be different. It is for this reason that small mines are of special concern to MSHA.

In addition, MSHA has examined the cost of compliance for underground coal mines with 36 or fewer employees, consistent with the requirements of the MINER Act, to ensure that the proposed rule would not significantly and adversely impact this subset of mines. Thus, the detailed factual basis below also shows the economic impact on underground coal mines with 36 or fewer employees.

B. Factual Basis for Certification

MSHA initially evaluates the economic impact of a rule on ''small entities'' by comparing the estimated costs of the rule for small entities to their estimated revenues. When estimated costs are less than one percent of estimated revenues for the size categories considered, MSHA believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. If the estimated costs are equal to or exceed one percent of revenues, MSHA will investigate whether a further analysis is required. For this proposed rule, MSHA has determined that the estimated costs are less than one percent of the estimated revenues. Therefore, MSHA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Coal mining revenues are derived from data on the price of coal and total coal production. Total underground coal production in 2006 was 359 million tons. The price of underground coal in 2005 was $36.42 per ton.[1] Thus, based on the total amount of coal production and the cost of coal per ton, the total estimated revenue in 2006 for underground coal production was $13.1 billion. Using the same approach, the estimated 2005 underground coal revenue by employment size category is approximately $0.3 billion for 220 mines with 1–19 employees, $1.3 billion for 368 mines with 1–36 employees, and $10.1 billion for 640 mines with 1–500 employees.

The proposed rule would result in an average yearly cost per underground coal mine of $3,074 for mines with 1–19 employees; $3,231 for mines with 1–36 employees; and $4,680 for mines with 1–500 employees. The average yearly cost per mine for all underground coal mines is $4,733. When dividing the yearly compliance costs by the annual revenues in each mine size category, the cost of the rule for underground coal mines is 0.24% of revenues for mines with 1–19 employees, 0.10% of revenues for mines with 1–36 employees, and 0.03% of revenues for mines with 1–500 employees. The cost as a percentage of revenues for all underground coal mines would be approximately 0.02%.

When applying MSHA's and SBA's definition of small entities, the annual cost of the proposed rule to small mines is substantially less than one percent of their estimated annual revenues. The proposed rule, therefore, would not have a significant economic impact on a substantial number of small entities. Accordingly, MSHA has certified that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by the proposed rule.

[1] U.S. Dept. of Energy, Energy Information Administration, ''Annual Coal Report 2005,'' Table 28, October 2006.

VII. Paperwork Reduction Act of 1995

1. Summary

The mine rescue team proposed rule would continue the existing paperwork burden requirements and impose several new paperwork burden requirements. Proposed § 49.16 would continue to require certification of inspection and testing of breathing apparatus, as well as a record of any corrective action taken for breathing apparatus. Proposed § 49.18 would continue to require preparation of training materials for new mine rescue team members and a record of each new mine rescue team member's training. The Office of Management and Budget (OMB) has approved these requirements, which are in existing §§ 49.6 and 49.8, under OMB control number 1219–0078. In addition, proposed § 49.50 would impose a new annual paperwork burden for mine operators to certify that each designated mine rescue team meets the requirements of this part. MSHA has developed optional forms for the mine operator to use for this certification. Proposed § 75.1501 also would require mine operators to certify that each responsible person has completed the required mine emergency response training.

Overall, the underground coal industry would incur approximately 2,466 paperwork burden hours in the first year with associated paperwork burden costs of approximately $83,300. Total burden hours in the first year consist of two components: first year burden hours and annual burden hours. Annual burden hours are those that occur every year. Of the 2,466 burden hours, 39 burden hours would occur in the first year and every 10 years thereafter with associated costs of $2,450 (equivalent to $349 of annualized costs). The remaining 2,427 burden hours would occur in the first year and every year thereafter with associated costs of approximately $83,000.

MSHA projects that the proposed rule would require additional mine rescue teams and equipment. Existing standards require information collection for mine rescue teams and equipment. MSHA would add the information collection burden for additional teams and equipment to that approved under existing Office of Management and Budget (OMB) control number 1219–0078.

For a detailed explanation of how the burden hours and related costs were calculated, see Chapter VII of the Preliminary Regulatory Economic Analysis (PREA) accompanying this proposed rule. The PREA is posted on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM.* A print copy of the PREA can be obtained from MSHA's Office of Standards, Regulations, and Variances at the address provided in the **ADDRESSES** section of this preamble.

2. Procedural Details

The information collection package has been submitted to OMB for review under 44 U.S.C. 3504, paragraph (h) of the Paperwork Reduction Act of 1995, as amended. A copy of the information collection package can be obtained from the Department of Labor by electronic mail request to *king.darrin@dol.gov* or by phone request to 202–693–4129.

MSHA requests comments to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments on the information collection requirements should be sent to both OMB and MSHA. Addresses for both offices can be found in the **ADDRESSES** section of this preamble. The regulated community is not required to respond to any collection of information unless it displays a current, valid, OMB control number. MSHA displays OMB control numbers in 30 CFR part 3.

VIII. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

MSHA has reviewed the proposed rule under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). The proposed rule would not increase private sector expenditures by more than $100 million annually; nor would it significantly or uniquely affect small governments. The proposed rule may result in increased expenditures by State, local, or tribal governments, however, because it places new requirements on underground coal mine operators in providing and training mine rescue teams. These proposed changes would not directly affect States or their relationships with the national government; however, some States sponsor mine rescue teams. In the spirit of the Unfunded Mandates Reform Act, MSHA specifically solicits comments on this proposed rule from State officials.

B. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires agencies to assess the impact of proposed agency actions on family well-being. MSHA has determined that this proposed rule would have no effect on family stability or safety, marital commitment, parental rights and authority, or income or poverty of families and children. Accordingly, MSHA certifies that this proposed rule would not impact family well-being.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not implement a policy with takings implications. Accordingly, E.O. 12630 requires no further Agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

This proposed rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. Accordingly, this proposed rule would meet the applicable standards provided in Section 3 of E.O. 12988.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule would have no adverse impact on children. Accordingly, E.O. 13045 requires no further Agency action or analysis.

F. Executive Order 13132: Federalism

Executive Order (E.O.) 13132 requires MSHA to develop an accountable process to ensure a meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined as

having ''substantial direct effects 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.'' The proposed rule would place new requirements on underground coal mine operators in providing and training mine rescue teams. These proposed changes would not directly affect States or their relationships with the federal government. Although the proposed rule does not directly affect States, some States sponsor mine rescue teams. Consistent with the spirit of E.O. 13132, MSHA specifically solicits comments on this proposed rule from State officials.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule would not have ''tribal implications,'' because it would 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, E.O. 13175 requires no further Agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to publish a statement of energy effect when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed the proposed rule for its impact on the supply, distribution, and use of energy because it applies to the underground coal mining industry. MSHA has concluded that this proposed rule is not a significant energy action because it would not have a significant adverse effect on the supply, distribution, or use of energy. Further, because this proposed rule would result in yearly costs of approximately $3.1 million to the underground coal mining industry, relative to annual revenues of $13.1 billion in 2006, it would not be a significant energy action because it would not be likely to have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, E.O. 13211 requires no further Agency action.

List of Subjects in 30 CFR Part 49

Education and training, Mine safety and health, Reporting and recordkeeping requirements.

Dated: August 29, 2007.

Richard E. Stickler,

Assistant Secretary for Mine Safety and Health.

For the reasons set out 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 is proposing to amend chapter 1 of title 30 of the Code of Federal Regulations as follows.

PART 49—MINE RESCUE TEAMS

1. The authority for part 49 is revised to read as follows:

Authority: 30 U.S.C. 811, 825(e).

Subpart A—Mine Rescue Teams for Underground Metal and Nonmetal Mines

2. Add a new subpart A with the heading as shown above consisting of existing §§ 49.1 through 49.9.

§ 49.10 [Removed]

3. Remove § 49.10.

4. Add new subpart B to read as follows:

Subpart B—Mine Rescue Teams for Underground Coal Mines

Sec.

Subpart B—Mine Rescue Teams for Underground Coal Mines

§ 49.11 Purpose and scope.

(a) This subpart implements the provisions of section 115(e) of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). Every operator of an underground coal mine shall assure the availability of mine rescue capability for purposes of emergency rescue and recovery.

(b) The following Table 49.11 summarizes the new requirements for mine rescue teams contained in section 4 of the MINER Act.

TABLE 49.11—SUMMARY OF NEW MINER ACT REQUIREMENTS FOR UNDERGROUND COAL MINE OPERATORS AND MINE RESCUE TEAMS.

Requirement	Type of Mine Rescue Team			
	Mine-site	Composite	Contract	State-sponsored*
Team members must participate at least annually in two local mine rescue contests.	YES	YES	YES	YES
Team members must participate in mine rescue training at the underground coal mine covered by the mine rescue team.	Annually at Large Mines. Semi-annually at Small Mines.	Semi-annually	Quarterly at Large Mines. Semi-annually at Small Mines.	Annually at Large Mines Semi-annually at Small Mines
Teams must be available at the mine within 1 hour ground travel time from the mine rescue station.	YES	YES	YES	YES
Team members must be knowledgeable about the operations and ventilation of the covered mines.	YES	YES	YES	YES
Teams must have team members which include at least two active employees from each of the covered mines.		YES		

TABLE 49.11—SUMMARY OF NEW MINER ACT REQUIREMENTS FOR UNDERGROUND COAL MINE OPERATORS AND MINE RESCUE TEAMS.—Continued

Requirement	Type of Mine Rescue Team			
	Mine-site	Composite	Contract	State-sponsored*
Team must be comprised of persons with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.	.....	.....	YES	
All mine operators must provide for two certified mine rescue teams. Large mine operators shall provide one team that is either an individual mine-site mine rescue team or a composite team.				

***Note:** Team members of State-sponsored teams who are full-time State employees whose primary job duties include (1) inspecting underground mines for compliance with State safety laws or (2) training mine rescue teams or (3) conducting mine safety training or (4) other similar duties that would enhance their mine rescue knowledge may substitute their regular job experience for 50 percent of the training requirements (annual training which includes mine rescue contests and mine-site training) for non-State employee mine rescue team members.

§ 49.12 Availability of mine rescue teams.

(a) Except where alternative compliance is permitted for small and remote mines (§ 49.13), every operator of an underground mine shall:

(1) Establish at least two mine rescue teams which are available at all times when miners are underground; or

(2) Enter into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(b) Each mine rescue team shall consist of five members and one alternate who are fully qualified, trained, and equipped for providing emergency mine rescue service. Mine rescue teams for anthracite coal mines, which have no electrical equipment at the face or working section, shall consist of at least three members per team and one alternate that may be shared between both teams.

(c) To be considered for membership on a mine rescue team, each person must have been employed in an underground mine for a minimum of 1 year within the past 5 years, except that members of contract mine rescue teams shall have a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground shall meet the experience requirement. The underground experience requirement is waived for those miners on a mine rescue team on the effective date of this rule.

(d) Each operator shall arrange, in advance, ground transportation for rescue teams and equipment to the mine or mines served.

(e) Upon the effective date of this part, the required rescue capability shall be present at all existing underground mines, upon initial excavation of a new underground mine entrance, or the re-opening of an existing underground mine.

(f) No mine served by a mine rescue team shall be located more than 1 hour ground travel time from the mine rescue station with which the rescue team is associated.

(g) As used in this part, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or in an off-duty capacity. The requirement that mine rescue teams be available shall not apply when teams are participating in mine rescue contests or providing services to another mine.

(h) Each operator of an underground mine who provides rescue teams under this section shall send the District Manager a statement describing the mine's method of compliance with this part. The statement shall disclose whether the operator has independently provided mine rescue teams or entered into an agreement for the services of mine rescue teams. The name of the provider and the location of the services shall be included in the statement. A copy of the statement shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement.

§ 49.13 Alternative mine rescue capability for small and remote mines.

(a) If an underground mine is small and remote, an operator may provide for an alternative mine rescue capability. For the purposes of this part only, consideration for small and remote shall be given where the total underground employment of the operator's mine and any surrounding mine(s) within 1 hour ground travel time of the operator's mine is less than 36.

(b) An application for alternative mine rescue capability shall be submitted to the District Manager for the district in which the mine is located for review and approval.

(c) Each application for an alternative mine rescue capability shall contain:

(1) The number of miners employed underground at the mine on each shift;

(2) The location of the designated mine rescue station serving the mine;

(3) The total underground employment of mines within 1 hour ground travel time of the operator's mine;

(4) The operator's mine fire, ground, and roof control history;

(5) The operator's established escape and evacuation plan;

(6) A statement by the operator evaluating the usefulness of additional refuge chambers to supplement those which may exist;

(7) A statement by the operator as to the number of miners willing to serve on a mine rescue team;

(8) The operator's alternative plan for assuring that a suitable mine rescue capability is provided at all times when miners are underground; and

(9) Other relevant information about the operator's mine which may be requested by the District Manager.

(d) A copy of the operator's application shall be posted at the mine. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the application.

(e) In determining whether to approve an application for alternative compliance, the District Manager shall consider:

(1) The individual circumstances of the small and remote mine;

(2) Comments submitted by, or on behalf of, any affected miner; and

(3) Whether the alternative mine rescue plan provides a suitable rescue capability at the operator's mine.

(f) Where alternative compliance is approved by MSHA, the operator shall adopt the alternative plan and post a copy of the approved plan (with appropriate MSHA mine emergency telephone numbers) at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the approved plan.

(g) The operator shall notify the District Manager of any changed condition or factor materially affecting information submitted in the application for alternative mine rescue capability.

(h)(1) An approved plan for alternative mine rescue capability shall be subject to revocation or modification for cause by MSHA, where it is determined that a condition or factor has changed which would materially alter the operator's mine rescue capability. If such action is contemplated, the operator will be notified, and given an opportunity to be heard before the appropriate District Manager.

(2) If an application for alternative compliance is denied or revoked, the District Manager shall provide the reason for such denial or revocation in writing to the operator. The operator may appeal this decision in writing to the Administrator for Coal Mine Safety and Health.

§ 49.14 [Reserved]

§ 49.15 Mine rescue station.

(a) Every operator of an underground mine shall designate, in advance, the location of the mine rescue station serving the mine.

(b) Mine rescue stations are to provide a centralized storage location for rescue equipment. This centralized storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure.

(c) Mine rescue stations shall provide a proper storage environment to assure equipment readiness for immediate use.

(d) Authorized representatives of the Secretary shall have the right of entry to inspect any designated mine rescue station.

§ 49.16 Equipment and maintenance requirements.

(a) Each mine rescue station shall be provided with at least the following equipment. Mine rescue stations serving underground anthracite coal mines, which have no electrical equipment at the face or working section, shall have at least the amount of equipment appropriate for the number of mine rescue team members.

(1) Twelve self-contained oxygen breathing apparatus, each with a minimum of 2 hours capacity (approved by MSHA and NIOSH under 42 CFR part 84, subpart H), and any necessary equipment for testing such breathing apparatus;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for 6 hours while using the breathing apparatus during rescue operations;

(3) One extra oxygen bottle (fully charged) for every six self-contained compressed oxygen breathing apparatus;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatus;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators or two flame safety lamps;

(8) One portable mine rescue communication system (approved under part 23 of this title) or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. These communication systems shall be at least 1,000 feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatus and communication system.

(b) Mine rescue apparatus and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatus shall inspect and test the apparatus at intervals not exceeding 30 days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and the person shall record the corrective action taken. The certification and the record of corrective action shall be maintained at the mine rescue station for a period of 1 year and made available on request to an authorized representative of the Secretary.

§ 49.17 Physical requirements for mine rescue team.

(a) Each member of a mine rescue team shall be examined annually by a physician who shall certify that each person is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions. The first such physical examination shall be completed within 60 days prior to scheduled initial training. A team member requiring corrective eyeglasses will not be disqualified provided the eyeglasses can be worn securely within an approved facepiece.

(b) In determining whether a miner is physically capable of performing mine rescue duties, the physician shall take the following conditions into consideration:

(1) Seizure disorder;

(2) Perforated eardrum;

(3) Hearing loss without a hearing aid greater than 40 decibels at 400, 1000, and 2000 Hz;

(4) Repeated blood pressure (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;

(5) Distant visual acuity (without glasses) less than 20/50 Snellen scale in one eye, and 20/70 in the other;

(6) Heart disease;

(7) Hernia;

(8) Absence of a limb or hand; or

(9) Any other condition which the examining physician determines is relevant to the question of whether the miner is fit for rescue team service.

(c) The operator shall have MSHA Form 5000–3 certifying medical fitness completed and signed by the examining physician for each member of a mine rescue team. These forms shall be kept on file at the mine rescue station for a period of 1 year.

§ 49.18 Training for mine rescue teams.

(a) Prior to serving on a mine rescue team each member shall complete, at a minimum, an initial 20-hour course of instruction as prescribed by MSHA's Office of Educational Policy and Development, in the use, care, and maintenance of the type of breathing apparatus which will be used by the mine rescue team. The initial training requirement is waived for those miners on a mine rescue team on the effective date of this rule.

(b) Upon completion of the initial training, all team members shall receive at least 64 hours of training annually, which shall consist of refresher training given at 8 hours every 2 months. Refresher training shall include:

(1) Sessions underground at least once each 6 months;

(2) The wearing and use of the breathing apparatus by team members for a period of at least 2 hours while under oxygen every 2 months;

(3) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

(4) Advanced mine rescue training and procedures, as prescribed by MSHA's Office of Educational Policy and Development;

(5) Mine map training and ventilation procedures; and

(6) The wearing of mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment at least once during each 12-month period.

(c) A mine rescue team member will be ineligible to serve on a team if more than 8 hours of training is missed during 1 year, unless additional training is received to make up for the time missed.

(d) The training courses required by this section shall be conducted by instructors who have been employed in an underground mine and have had a minimum of 1 year experience as a mine rescue team member or a mine rescue instructor within the past 5 years and who have received MSHA approval through one of the following methods:

(1) Completion of an MSHA or State approved instructor's training course and the program of instruction in the subject matter to be taught; or

(2) Designation by the District Manager as approved instructors to teach specific courses, based on their qualifications and teaching experience outlined above. Previously approved instructors need not be redesignated to teach the approved courses as long as they have taught those courses within the 24 months prior to the effective date of this part.

(e) The District Manager may revoke an instructor's approval for good cause. A written statement revoking the approval together with reasons for revocation shall be provided the instructor. The affected instructor may appeal the decision of the District Manager by writing to the Administrator for Coal Safety and Health. The Administrator shall issue a decision on the appeal.

(f) Upon request from the District Manager, the operator shall provide information concerning the schedule of upcoming training.

(g) A record of training of each team member shall be on file at the mine rescue station for a period of 1 year.

§ 49.19 Mine emergency notification plan.

(a) Each underground mine shall have a mine rescue notification plan outlining the procedures to follow in notifying the mine rescue teams when there is an emergency that requires their services.

(b) A copy of the mine rescue notification plan shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the plan.

§ 49.20 Requirements for all coal mines.

(a) The operator of each underground coal mine shall make available two certified mine rescue teams whose members—

(1) Are familiar with the operations of the mine, and

(2) Participate at least annually in two local mine rescue contests.

(b) Team members shall meet the following:

(1) *Mine-site team.* Members who work at the mine and participate in mine rescue training at the mine at least annually at large mines and semi-annually at small mines.

(2) *Composite team.* A mine rescue team that covers multiple mines and whose members—

(i) Include at least two members from each covered mine,

(ii) Are knowledgeable about the operations and ventilation of the covered underground coal mines, and

(iii) Participate in mine rescue training at each covered mine at least semi-annually at large and small mines.

(3) *Contract team.* A mine rescue team that is provided by an arrangement with another coal mine or with a third party and whose members—

(i) Are knowledgeable about the operations and ventilation of the covered underground coal mine, and

(ii) Participate in mine rescue training at a covered large mine at least quarterly and at a covered small mine at least semi-annually.

(4) *State-sponsored team.* Members who are State employees and participate in mine rescue training at a covered large mine at least annually and at a covered small mine at least semi-annually.

§ 49.30 Requirements for small coal mines.

At mines with 36 or fewer employees, mine rescue team members shall be knowledgeable about the operations and ventilation of the mine.

§ 49.40 Requirements for large coal mines.

At mines with more than 36 employees, one of the two certified mine rescue teams shall be an individual mine-site team or a composite team.

§ 49.50 Certification of coal mine rescue teams.

For each mine rescue team designated to provide mine rescue coverage at an underground coal mine, the mine operator shall send the District Manager an annual statement certifying that each team meets the requirements of this part as listed in the following Table 49.50.

TABLE 49.50.—CRITERIA TO CERTIFY THE QUALIFICATIONS OF MINE RESCUE TEAMS

Qualification	Criteria (30 CFR)
(a) Team Members	
(1) Except where alternative compliance is permitted, team has at least five members and one alternate.	49.12(a) 49.12(b)
(2) Members are physically fit.	49.17
(3) Members have experience working in an underground coal mine.	49.12(c)
(4) Members are familiar with the operations of the mine.	49.20(a)(1)
(5) Members are knowledgeable about the operations and ventilation of the mine.	49.20(b)(2)(ii) 49.20(b)(3)(i) 49.30
(6) Members are properly trained.	49.18
(7) Members participate in mine rescue training at the mine.	49.20(b)(1) 49.20(b)(2)(iii) 49.20(b)(3)(ii) 49.20(b)(4) 49.30

TABLE 49.50.—CRITERIA TO CERTIFY THE QUALIFICATIONS OF MINE RESCUE TEAMS—Continued

Qualification	Criteria (30 CFR)
(8) Members participate in at least two mine rescue contests annually.	49.20(a)(2)
(b) Team Availability	
(1) Team is available at all times when miners are underground.	49.12(a)
(2) Team is available within 1-hour ground travel time from the mine rescue station to the mine.	49.12(f)
(c) Team Equipment	
Appropriate mine rescue equipment is provided, inspected, tested, and maintained.	49.16

§ 49.60 Requirements for a local mine rescue contest.

(a) A local mine rescue contest is one that—

(1) Is conducted in the United States;

(2) Uses MSHA-recognized rules;

(3) Has a minimum of three mine rescue teams competing;

(4) Includes team members who—

(i) Have the necessary equipment to participate in a simulated mine rescue team exercise,

(ii) Participate in a simulated mine rescue team exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback, and

(iii) Wear oxygen breathing apparatus while participating in a realistic simulation rescue exercise; and

(5) Includes contest judges who have completed annual training for mine rescue contest judges.

(b) Upon request from the District Manager, the operator shall provide information concerning the schedule of upcoming mine rescue contests.

(c) Other training that provides equivalent skills development can substitute for participation in a local mine rescue contest. Examples include a Mine Emergency Response Development (MERD) drill or an equivalent realistic simulation exercise, such as fire and explosion drills, where the team participates in simulated mine rescue team exercises and wears breathing apparatus.

Appendix to Part 49 Subpart B: Optional Forms for Certifying Mine Rescue Teams.

BILLING CODE 4510–43–P

OPERATOR'S CERTIFICATION OF MINE RESCUE TEAM QUALIFICATIONS

I certify the following is true and accurate to the best of my knowledge. Printed Name & Signature:	Date:	Position held at the mine:
MSHA Mine ID No.:	Contractor ID No.:	Company Name:
Mine Name:	Mine Address:	
Team Name:	Type of Team:	O Mine-site O Composite O Contract O State-sponsored
O Mine Rescue Station within 1-hour ground travel time to the mine § 49.12(f). Address of Mine Rescue Station:	O Team available at all times when miners underground § 49.12(a).	O Station properly equipped § 49.16.

Name of Team Member:						
Where Employed: Mine or Employer Name & Address						
Check if applicable.	O State Employee	O State Employee	O State Employee	O State Employee	O State Employee	O State Employee
Physically fit: § 49.17	O	O	O	O	O	O
Experience working in an underground coal mine: § 49.12(c)	O	O	O	O	O	O
Familiar with operations of mine: § 49.20(a)(1)	O	O	O	O	O	O
Knowledgeable about operations & ventilation of mine: §§ 49.20(b) or 49.30	O	O	O	O	O	O
Properly Trained: § 49.18 *Check all applicable circles.*	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more

1. 8 hr training every 2 mos.	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec
2. Training session underground every 6 mos.	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec
3. Using apparatus 2 hr every 2 mos.	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec
4. Training on auxiliary equipment or different apparatus.	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable
5. Advanced training & procedures.	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable
6. Mine maps & ventilation.	O	O	O	O	O	O
7. Wearing apparatus in smoke or equivalent.	O	O	O	O	O	O
Trains at this mine: §§ 49.20(b) & 49.30 (Insert dates)						
Takes part in two local mine rescue contests: § 49.20 (a)(2) (Insert dates)						

MSHA Form No. ____________ OMB Control No. ____________

BILLING CODE 4510–43–C

PART 75—[AMENDED]

6. The authority for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

7. Amend § 75.1501 by revising paragraph (a) to read as follows:

§ 75.1501 Emergency evacuations.

(a) For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion or gas or water inundations.

(1) The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, locations of firefighting equipment, the mine's Emergency Response Plan, the Mine Rescue Notification Plan, and the Mine Emergency Evacuation and Firefighting Program of Instruction.

(2) The responsible person shall be trained annually in mine emergency response. Training shall include knowledge in the following:

(i) Organizing a command center;

(ii) Directing firefighting personnel;

(iii) Deploying firefighting equipment;

(iv) Directing mine rescue personnel;

(v) Establishing fresh air base;

(vi) Deploying mine rescue teams;

(vii) Providing for mine gas sampling and analysis;

(viii) Establishing security;

(ix) Initiating an emergency mine evacuation;

(x) Contacting emergency personnel; and

(xi) Communicating appropriate information related to the emergency.

(3) The operator shall certify by signature and date after each responsible person has completed the training and keep the certification at the mine for 1 year.

* * * * *

[FR Doc. 07–4317 Filed 9–4–07; 12:30 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 49

RIN 1219–AB56

Mine Rescue Team Equipment

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

ACTION: Proposed rule; notice of public hearings; close of comment period.

SUMMARY: This proposed rule would amend MSHA's existing standard addressing mine rescue team equipment at mine rescue stations serving underground coal and metal and nonmetal mines. MSHA proposes to amend the existing standard to reflect advances in mine rescue team equipment technology. The proposed amendments would increase safety and improve effectiveness of mine rescue teams.

DATES: All comments must be sent on or before November 9, 2007. MSHA will hold four public hearings on October 23, October 25, October 30, and November 1, 2007. Details about the public hearings are in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB56'' and may be sent to MSHA 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.* Include ''RIN 1219–AB56'' in the subject line of the message.

(3) *Facsimile:* 202–693–9441. Include ''RIN 1219–AB56'' 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. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Information Collection Requirements: This proposed rule would not require any additional paperwork or information collection.

Docket: 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. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Mailing List: 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* under the *Mailing List* link.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at *silvey.patricia@dol.gov* (internet e-mail), 202–693–9440 (voice), or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Introduction

The existing standards for mine rescue teams contained in 30 CFR part 49 apply to all underground mines. Part 49 contains requirements addressing three essential elements of effective mine rescue teams: (1) Ready availability; (2) proper equipment at mine rescue stations; and (3) basic levels of skills and training. This proposed rule would revise and update MSHA's existing standard in 30 CFR part 49 for mine rescue team equipment. It is critical that mine rescue team members be provided with the latest in protective equipment so they can safely and effectively carry out their mission.

Public Hearings

MSHA will hold four public hearings concerning the proposed rule. The hearings will begin at 2 p.m. and will be held as follows:

Date	Location	Contact
October 23, 2007, 2 p.m. to 6 p.m.	Little America Hotel, 500 South Main Street, Salt Lake City, UT 84101	801–596–5700
October 25, 2007, 2 p.m. to 6 p.m.	Four Points by Sheraton Lexington, 1938 Stanton Way, Lexington, KY 40511	859–259–1311
October 30, 2007, 2 p.m. to 6 p.m.	Charleston Civic Center, West Virginia Room 105, 200 Civic Center Drive, Charleston, WV 25301.	304–345–1500
November 1, 2007, 2 p.m. to 6 p.m.	Sheraton Birmingham Hotel, 2101 Richard Arrington Boulevard, North, Birmingham, AL 35203.	205–324–5000