

compliance with the applicable dust standard in the plan.

MSHA would require mine operators to include information on the length of each normal production shift in § 75.371(f) and to specify the VPL, as defined in § 70.2, in every ventilation plan. The VPL is the tenth highest production level recorded in the most recent 30 production shifts. This value will represent the minimum production level at which effectiveness of the plan must be demonstrated.

MSHA believes that the current production criteria used to evaluate

plan effectiveness may not adequately represent typical conditions under which miners work. Requiring that plans be verified at or above the VPL will provide assurance that excessive dust concentrations will be avoided, even on shifts with higher-than-average production. This is far more protective of miners than the current practice of evaluating plan adequacy based on MSHA samples taken when production can be as low as 60 percent of the average production.

Some commenters on the earlier proposed rule expressed confusion about the relative magnitude of the VPL, compared to average production or other possible production criteria. Figure 1 shows a typical distribution of 30 shift production levels recorded at a longwall MMU. As illustrated by this example, the VPL, defined as the 10th highest production achieved during 30 shifts, generally exceeds the average production by a substantial amount.

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