

Therefore, in the second year of the proposed plan verification rule and for every year thereafter, there would be a net decrease of 42,538 burden hours and a related cost reduction of \$1,075,747.

We invite public comments and are particularly interested in comments which:

1. Evaluate whether the proposed collection of information (presented here and in Chapter 7 of the PREA for the proposed plan verification rule) is necessary for the proper performance of the functions of MSHA, including whether the information would have practical utility;

2. Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

We have submitted a copy of this proposed rule to OMB for its review and approval of these information collections. Interested persons are requested to send comments regarding this information collection, including suggestions for reducing this burden, if under 10 pages, by facsimile (202) 395-6974 to Attn: Desk Officer for MSHA; or by email to: cathomas@omb.gov. All comments may be sent by mail addressed to the Office of Information and Regulatory Affairs, OMB New Executive Office Building, 725 17th St., NW., Rm. 10235, Washington, DC 20503, Attn: Desk Officer for MSHA. Please send a copy of your comments to MSHA at the address listed in the **ADDRESSES** section of the preamble. Submit written comments on the information collection not later than June 4, 2003.

Our paperwork submission summarized above is explained in detail in Chapter 7 of the PREA. The PREA includes the estimated costs and assumptions for each proposed paperwork requirement related to the proposed plan verification rule. These paperwork requirements have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1995. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. The PREA is located on

our Web site at <http://www.msha.gov/REGSINFO.HTM>.

C. National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 requires each Federal agency to consider the environmental effects of proposed actions and to prepare an Environmental Impact Statement on major actions significantly affecting the quality of the human environment. MSHA has reviewed the proposed standard in accordance with the requirements of the NEPA (42 U.S.C. 4321 *et seq.*), the regulation of the Council on Environmental Quality (40 CFR part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11). As a result of this review, MSHA has preliminarily determined that this proposed standard will have no significant environmental impact.

Commenters are encouraged to submit their comments on this determination.

D. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This proposed rule is not subject to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, because it does not involve implementation of a policy with takings implications.

E. Executive Order 12988: Civil Justice Reform

The Agency has reviewed Executive Order 12988, Civil Justice Reform, and determined that this rulemaking will not unduly burden the Federal court system. The regulation has been written so as to provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

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

In accordance with Executive Order 13045, protection of children from environmental health risks and safety risks, MSHA has evaluated the environmental health or safety effects of the proposed rule on children. The Agency has determined that this proposed rule would not have an adverse impact on children.

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

MSHA certifies that this proposed rule does not impose substantial direct

compliance costs on Indian tribal governments.

H. Executive Order 13132: Federalism

MSHA has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The rule does not "have 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."

I. Executive Order 13211: Energy

MSHA has reviewed this proposed rule in accordance with Executive Order 13211 regarding the energy effects of Federal regulations and has determined that this proposed rule does not have any adverse effects on energy supply, distribution, or use. Therefore, no reasonable alternatives to this action are necessary.

J. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the Plan Verification proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed in Chapter V of the PREA, MSHA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

XI. Public Hearings

MSHA plans to hold public hearings on the proposed rule. The hearings will be held under Section 101 of the Federal Mine Safety and Health Act of 1977. The hearings will be held in the following cities:

- (a) Evansville, Indiana;
- (b) Charleston, West Virginia;
- (c) Grand Junction, Colorado;
- (d) Birmingham, Alabama;
- (e) Lexington, Kentucky;
- (f) Washington, Pennsylvania, and

The specific dates, times and facilities for the hearings will be announced by a separate notice in the **Federal Register**.

Appendix A—Derivation of the Critical Values

All measurements of respirable dust concentration are subject to potential sampling and analytical errors. Because of such errors, a measurement may fall slightly below the verification limit even when the true concentration of