

when a mine fire shuts down a coal mine.

C. Compliance Costs

The proposed rule revises various sections of part 75, which regulates underground coal mines. These revised sections include § 75.301 Definitions, § 75.350 Air courses and belt haulage entries (title revised to Belt air course ventilation), § 75.351 Atmospheric monitoring systems, § 75.352 Return air courses (title revised to Actions in response to AMS alert and alarm signals or malfunctions), § 75.371 Mine ventilation plan, § 75.372 Mine ventilation map, and § 75.380(g) Escapeway; bituminous and lignite mines.

The main substantive changes of the proposed rule are for three-or-more-entry mines that voluntarily choose to use belt air as intake air to ventilate the working places of the coal mine. Three-or-more-entry mines that choose to ventilate the working places with belt air are required to use an atmospheric monitoring system (AMS) to assure worker safety. A secondary substantive change applies to three-or-more entry mines that voluntarily choose to point feed the belt air course.

There are no substantive changes in the proposed rule that apply to any mine that chooses not to use belt air at the working places, and that chooses not to point feed the belt air. Two-entry mines are also not impacted by the proposed rule.

Because all changes impact only mines that voluntarily undertake certain actions, there are only net cost savings from the proposed rule. This is because MSHA presumes that no mine operator would install and use an AMS in order to use belt air unless the mine operator anticipated cost savings as a result.

The primary cost savings from the proposed rule accrue to underground coal mines that choose to use belt air at the working places. Total cost savings from this source are estimated at approximately \$650,000 per year. These cost savings for the belt-air mines also include cost savings from point feeding.

Secondary cost savings of the proposed rule accrue to mines that choose to point feed the belt air, but choose not to use belt air at the working sections. For these mines, the cost savings from point feeding are estimated at \$31 thousand per year. In total, the cost savings from the proposed rule are approximately \$680,000 per year.

D. Economic Impact

The proposed rule will enhance safety in belt air mines while utilizing the common incentive of both workers and

mine owners to avoid mine fires, and particularly to avoid fires that may result in a serious mine fire accident.

MSHA believes that the estimated cost savings of this proposed rule are conservative because contested petition costs were not included in the preliminary economic analysis. If a petition is contested, the costs to the petitioner could increase by as much as \$100,000.

The proposed rule provides additional encouragement for mine operators to install an AMS by reducing regulatory hurdles to the use of belt air at the working places. The installation of AMSs in additional mines will reduce the risk of mine fire accidents that may injure or kill miners or severely damage mine property. Mine operators are inherently interested in avoiding these catastrophic incidents that could result in the lost of the mine. This proposed rule would mandate the proper installation and maintenance of AMSs that would serve to further protect mine property from these catastrophic incidents.

MSHA has concluded that the proposed rule will have only a small (but favorable) effect on coal output, price, and profitability.

E. Feasibility

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

This proposed rule is not a technology-forcing standard and does not involve activities on the frontiers of scientific knowledge. The technology to monitor the mine atmosphere and to alert miners of hazards involve available, off-the-shelf technologies that are currently being used in many mines. Also, standard procedures used to safeguard the safety of miners are approved by the Agency through the mine's fire fighting and evacuation plan. Other provisions of the proposed rule will reduce petition requirements.

The proposed rule is clearly economically feasible insofar as it will reduce costs for the mining industry while increasing the use of AMSs to monitor the mine atmosphere. The primary cost savings of \$654,000 per year from the proposed rule come from the ability of underground coal mines to use belt air. Approximately 70 percent of these cost savings are generated from reduced shaft-sinking costs for new mines. The other 30 percent of cost savings come from energy cost savings from reductions in ventilation fan power (25%) and elimination of the petition for modification process (legal and administrative costs—5%). The

secondary cost savings of \$31,000 per year from the proposed rule come from mines that choose not to use belt air to ventilate working sections but that do take advantage of the point-feeding provision that applies to all three-or-more entry mines. In total, the cost savings from the proposed rule are \$685,728 per year.

The proposed rule would provide for a safe mining environment and would facilitate the use of technologically advanced fire-detection systems. In addition, there would no longer be a time delay for approval due to the petition process. Mine operators could use belt air to ventilate working sections as soon as they are in compliance with the rule.

F. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Regulatory Flexibility Act (RFA), as amended by SBREFA, requires regulatory agencies to consider a rule's impact on small entities. For the purposes of the RFA and this preliminary determination, MSHA has analyzed the impact of the proposed rule and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities that are affected by this rulemaking.

MSHA will mail a copy of the proposed rule, including the preamble and regulatory flexibility certification statement, to all underground coal mine operators and miners' representatives. The proposed rule will also be placed on MSHA's Internet Homepage at <http://www.msha.gov>, under Statutory and Regulatory Information.

In accordance with RFA and its amendments at 5 U.S.C. 605(b), MSHA has determined that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities. No small governmental jurisdictions or nonprofit organizations will be affected.

The RFA, as amended, at 5 U.S.C. § 605(b) also requires MSHA to include in the proposed rule a factual basis for this preliminary determination. This information must be published in the **Federal Register**.

Factual Basis for Certification

The Agency compared the gross costs of the rule for small mines in each sector to the revenue for that sector for both size categories analyzed (MSHA and Small Business Administration "small entity" definitions). Given that the gross compliance costs for small mines is substantially less than 1 percent of revenue and that net costs are