

negative, MSHA concludes that there is no significant cost impact of the rule on small entities. For both definitions of a small mine, the net cost of the proposed rule is negative. Since the proposed rule results in net cost savings, there would not be any burden placed on small mine operators. Accordingly, MSHA preliminarily certifies that there is no significant impact on a substantial number of small coal mining entities that are affected by this rule.

VII. Other Regulatory Analyses

A. Unfunded Mandates Reform Act of 1995 and Executive Order 12875 (Enhancing the Intergovernmental Partnership)

For purposes of the Unfunded Mandates Reform Act of 1995, as well as E.O. 12875 (58 FR 58093), this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than \$100 million. MSHA is not aware of any State, local, or tribal government that either owns or operates underground coal mines.

B. Executive Order 13132 (Federalism)

MSHA has reviewed this proposed rule in accordance with Executive Order 13132 (64 FR 43255) regarding federalism, and has determined that it does not have "federalism implications." The proposed rule would 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." There are no underground coal mines owned or operated by any State governments.

C. Executive Order 13045 (Health and Safety Effect on Children)

In accordance with Executive Order 13045, 62 FR 19885, MSHA has evaluated the environmental health and safety effect of the proposed rule on children. The Agency has determined that the proposed rule will have no effect on children.

D. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

In accordance with Executive Order 13175 (63 FR 27655), MSHA certifies that the proposed rule does not impose substantial direct compliance costs on Indian tribal governments. MSHA is not aware of any Indian tribal governments which either own or operate underground coal mines.

E. Executive Order 12630 (Governmental Actions and Interference With Constitutionally Protected Property Rights)

This proposed rule is not subject to Executive Order 12630, 53 FR 8859, because it does not involve implementation of a policy with takings implications.

F. Executive Order 12988 (Civil Justice Reform)

The Agency has reviewed Executive Order 12988 (61 FR 4729) and determined that this proposed rule would not unduly burden the Federal court system. The proposed rule 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.

G. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, 66 FR 28355, MSHA has reviewed this proposed rule for its energy impacts. MSHA has determined that this proposed rule would not have any adverse effects on energy supply, distribution, or use.

H. Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the 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.

VIII. Petitions for Modification

On the effective date of the final rule, all existing petitions for modification for belt air used to ventilate working places under § 75.350 in mines with sections developed using three or more entries will be superseded. Mine operators will thereafter be required to comply with the provisions of the final rule. However, all existing two-entry petition requirements will remain in effect and will not be superseded by this rule. Future two-entry mines will need to continue to file petitions to use belt air, since proposed § 75.350(a) prohibits placing the conveyor belt in the return.

List of Subjects in 30 CFR Part 75

Communications equipment,
Emergency medical services,

Explosives, Fire prevention, Mandatory safety standards, Mine safety and health, Reporting and recordkeeping requirements, Underground coal mines, Ventilation.

Dated: January 13, 2003.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

It is proposed to amend, for the reasons set out in the preamble, chapter I of title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

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

Authority: 30 U.S.C. 811.

2. Amend § 75.301 by adding the following definitions:

§ 75.301 Definitions.

* * * * *

AMS operator. The person(s) designated by the mine operator located on the surface of the mine who monitors the malfunction, alert, or alarm signals of the AMS and notifies appropriate personnel to these signals.

* * * * *

Appropriate Personnel. The person or persons designated by the operator to perform specific tasks in response to AMS signals.

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Atmospheric Monitoring System (AMS).

(1) A network consisting of hardware and software meeting the requirements of §§ 75.351 and 75.1103–2 and capable of:

- (i) Measuring atmospheric parameters;
- (ii) Transmitting the measurements to a designated surface location;
- (iii) Providing alert and alarm signals;
- (iv) Processing and cataloging atmospheric data; and,
- (v) Providing reports.

(2) Early-warning fire detection systems using newer technology that provide equal or greater protection, as determined by the Secretary, will be considered an atmospheric monitoring system for the purposes of this subpart.

* * * * *

Belt air course. The entry in which a belt is located and any adjacent entry(ies) not separated from the belt entry by permanent ventilation controls, including any entries in series with the belt entry, terminating at a return regulator, a section loading point, or the surface.

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