

We have concluded that small governmental entities would not be significantly or uniquely impacted by this rule. This rule would cover 664 underground coal mining operations.

#### *B. Executive Order 13132: Federalism*

We have reviewed this rule in accordance with Executive Order 13132 regarding federalism and have determined that it does not have "federalism implications." This 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.

#### *C. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this rule on children. The Agency has determined that this rule would have no adverse effect on children.

#### *D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

We certify that this rule would not impose substantial direct compliance cost on Indian tribal governments.

#### *E. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights*

This 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.

#### *F. Executive Order 12988: Civil Justice Reform*

We have reviewed Executive Order 12988 and determined that this rule would not unduly burden the Federal court system. We drafted the rule to provide a clear legal standard for affected conduct.

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

In accordance with Executive Order 13211, we have reviewed the rule for its energy impacts. The rule would have no effect on the distribution or use of energy. The only impacts of the rule on the supply of energy would be through its effect on the price of coal.

The estimated yearly cost of the rule for the coal mining industry would be

about \$0.23 million.<sup>1</sup> The annual revenues of the coal mining industry in 2001 were approximately \$17.1 billion.<sup>2</sup> The cost of the rule for the coal mining industry would therefore be 0.001% of revenues. Even if we were to suppose that the increased cost caused by the rule would be fully reflected in coal prices, the impact would be negligible.

Accordingly, we have determined that the rule would have no significant adverse effect on the supply, distribution, or use of energy.

#### *H. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking*

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the 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 REA, MSHA has determined that the rule would not have a significant economic impact on a substantial number of small entities.

#### **List of Subjects**

##### *30 CFR Part 48*

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

##### *30 CFR Part 75*

Coal mines, Underground coal mining, Mine safety and health, Emergency medical services, Fire prevention, and recordkeeping requirements.

Dated: September 2, 2003.

**Dave D. Lauriski,**

*Assistant Secretary of Labor for Mine Safety and Health.*

■ Chapter I of title 30, parts 48 and 75, of the Code of Federal Regulations is amended as follows:

#### **PART 48—[AMENDED]**

■ 1. The authority citation for part 48 continues to read as follows:

**Authority:** 30 U.S.C. 811, 825.

■ 2. Section 48.8 is amended by revising paragraph (b)(4) to read as follows:

#### **§48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.**

\* \* \* \* \*

<sup>1</sup> Estimate obtained from Table IV-1 of the REA.

<sup>2</sup> Data for revenues derived from: U.S. Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, based on 2001 PEIR data and U.S. Department of Energy, Energy Information Administration, Annual Coal Report 2001, March 2003, Table 29, pg. 52.

(b) \* \* \*

(4) *Roof or ground control, ventilation, emergency evacuation and firefighting plans.* The course shall include a review of roof or ground control plans in effect at the mine and the procedures for maintaining and controlling ventilation. In addition, for underground coal mines the course shall include a review of the emergency evacuation and firefighting plans in effect at the mine.

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#### **PART 75—[AMENDED]**

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

**Authority:** 30 U.S.C. 811.

■ 4. Subpart P is amended by revising the heading and by revising §75.1501 to read as follows:

#### **Subpart P—Mine Emergencies**

\* \* \* \* \*

##### **§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. 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.

(b) The responsible person shall initiate and conduct an immediate mine evacuation when there is a mine emergency which presents an imminent danger to miners due to fire or explosion or gas or water inundation. Only properly trained and equipped persons essential to respond to the mine emergency may remain underground.

(c) The mine operator shall instruct all miners of the identity of the responsible person designated by the operator for their workshift. The mine operator shall instruct miners of any change in the identity of the responsible person before the start of their workshift.

(d) Nothing in this section shall be construed to restrict the ability of other persons in the mine to warn of an imminent danger which warrants evacuation.