



DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

[Docket No. MSHA-2025-0072]

RIN 1219-AC18

Roof Control Plan Approval Criteria

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: MSHA is proposing to revise its roof control plan regulations to eliminate the provision that allows the District Manager to require additional measures to be included in plans. The current regulation may violate statutory authority; the Appointments Clause, by vesting significant regulatory authority in District Managers; and the Administrative Procedure Act (APA), by skipping notice and comment.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: All submissions must include RIN 1219-AC18 or Docket No. MSHA-2025-0072. You should not include personal or proprietary information that you do not wish to disclose publicly. If you mark parts of a comment as “business confidential” information, MSHA will not post those parts of the comment. Otherwise, MSHA will post all comments without change, including any personal information provided. MSHA cautions against submitting personal information.

You may submit comments and informational materials, clearly identified by RIN 1219-AC18 or Docket No. MSHA-2025-0072, by any of the following methods:

1. *Federal E-Rulemaking Portal*: <https://www.regulations.gov>. Follow the online instructions for submitting comments for MSHA-2025-0072. A brief summary of this document will be available at <https://www.regulations.gov/docket/MSHA-2025-0072>.

2. *Email*: zzMSHA-comments@dol.gov. Include “RIN 1219-AC18” in the subject line of the message.

3. *Regular Mail or Hand Delivery*: MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Avenue, NW, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9440 to make an appointment.

No telefacsimiles (“faxes”) will be accepted.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA at 202-693-9440 (voice). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

By statute Congress prescribed an interim standard requiring that “[e]ach operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine...” and shall adopt a “roof control plan” subject to bi-annual review of the Secretary. 30 U.S.C. 862(a). Further, Congress instructed the Secretary of Labor to “develop, promulgate, and revise as may be appropriate, improved mandatory health and safety standards for the protection of life and prevention of injuries in coal or other mines.” 30 U.S.C. 811(a). The interim statutory “roof control” standard was to be superseded by improved mandatory standards. 30 U.S.C. 861(a). Pursuant to 30 U.S.C. 811(a), MSHA has adopted regulations to implement 30 U.S.C. 862(a) and these standards include a roof control plan requirement. 30 CFR 75.220-223. Each mine operator must “develop and follow a roof control plan” which is “approved by the District Manager.” 30 CFR 75.220(a). No roof control plan may be implemented before it is approved. 30 CFR 75.220(c).

MSHA regulations also set out detailed criteria for the approval of roof control plans. 30 CFR 75.222. For example, roof bolts generally “should be installed on centers not exceeding 5 feet lengthwise and crosswise.” 30 CFR 75.222(b)(1). “When tensioned roof bolts are used as a means of roof support, the torque or tension range should be capable of supporting roof bolt loads of at least 50 percent of either the yield point of the bolt or anchorage capacity of the strata, whichever is less.” 30 CFR 75.222(b)(2). “Any opening that is more than 20 feet wide should be supported by a combination of roof bolts and conventional supports.” 30 CFR 75.222(b)(3). “In any opening more than 20 feet wide[,]” posts “should be installed to limit each roadway to 16 feet wide where straight and 18 feet wide where curved” and a “row of posts should be set for each 5 feet of space between the roadway posts and the ribs.” 30 CFR 75.222(b)(4). “Openings should not be more than 30 feet wide.” 30 CFR 75.222(b)(5).

The regulations also include detailed requirements for installation of roof support using mining machines with integral roof bolters, pillar recovery, unsupported openings at intersections, Automated Temporary Roof Supports (ATRS) systems in working sections where the mining height is below 30 inches, and longwall mining systems. 30 CFR 75.222(c)-(g). These criteria must be “considered on a mine-by-mine basis in the formulation and approval of roof control plans and revisions.” 30 CFR 75.222(a). The Roof Control Plan has the force and effect of “law” at the mine, the mine may be cited for violation of the Plan, and mine personnel may be held personally liable, civilly and criminally, for violations of the Plan.

Title 30 CFR 75.222, however, also gives the District Manager broad authority to add regulatory criteria for the approval of roof control plans which are neither described or required by the regulations or 30 U.S.C. 862(a). Specifically, the regulations currently state, without limitation, that: “[a]dditional measures may be required in plans by the District Manager.” *Id.*

II. Discussion

MSHA is proposing to rescind the power of District Managers to add additional measures to roof control plans, beyond the reticulated criteria set out in 30 CFR 75.222 and the other

requirements set forth in 30 CFR 75.220-223. MSHA has reevaluated its regulations and tentatively concluded that the significant authority and discretion granted to District Managers in 30 CFR 75.222(a), to add “additional measures,” not identified in the statute or improved mandatory safety standards, is not supported by statute, violates the Appointments Clause and the APA.

While mine operators are required by statute to prepare and submit a roof control plan, and while MSHA has promulgated regulations setting forth specific criteria and requirements for roof control plans, nothing in the plain text of the underlying statute, including 30 U.S.C. 862 and 30 U.S.C. 811(a), can be read to permit the unfettered addition of “additional measures [as] may be required in plans by District Managers.” 30 CFR 75.222(a). This lack of statutory authority is contrary to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) and is an adequate reason to rescind the sentence “Additional measures may be required in plans by District Managers.”

Government officials that exercise significant discretion when carrying out important functions are officers of the United States, and thus subject to the Appointments Clause. *See Lucia v. SEC*, 585 U.S. 237, 248 (2018); U.S. Const. Art. II, §2, cl. 2. Under 30 CFR 75.222(a), District Managers are granted nearly unlimited discretion to add additional measures to roof control plans as they deem appropriate, an important function. Accordingly, because District Managers are not appointed pursuant to the Appointments Clause, that substantial authority is unlawful.

Independently, the significant discretion in 30 CFR 75.222(a) appears to violate the APA. This regulation essentially amounts to the unfettered ability of the District Manager to draft and create “laws” which are civilly and criminally enforceable, without bicameral presentment, and without notice and comment rulemaking. Various statutory provisions, including 30 U.S.C. 811, give the Secretary authority to issue health and safety regulations for mines. But, when these regulations are substantive rules, with “general or particular applicability and future effect

designed to implement, interpret, or prescribe law or policy,” 5 U.S.C. 551(4), they are subject to the notice and comment process. MSHA must present the rulemaking to the public for comment, then issue a final rule responding to any comments. *See* 5 U.S.C. 553. Title 30 CFR 75.222(a) skips this process entirely when it vests District Managers with the authority to require undesignated roof control plan provisions. The District Manager, by adding additional criteria for roof control plans, is promulgating a new substantive rule of particular applicability, without any of the necessary process. Thus, 30 CFR 75.222(a) violates the APA.

MSHA seeks comments on any aspects of this proposed rule, including the statutory authority, appointments clause issues and APA requirements, and the costs and benefits of the District Manager’s vague authority.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies to use the best available techniques to quantify anticipated present and

future benefits and costs as accurately as possible. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends.

E.O. 12866 and E.O. 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Background

The proposed rule would apply to all underground coal mines. The existing rule allows the District Manager to require mine operators to include plan requirements not specified in the statute or regulations, while the proposed rule would rescind the power of District Managers to do so. The proposed change would decrease the burden currently faced by mine operators of having to revise their roof control plans to include plan requirements not specified in the statute or regulations when required by the District Manager. The proposed rule would maintain the roof control plans requirements, except for the District Manager's discretion to include plan requirements not specified in the statute or regulations.

Based on MSHA internal data, the Agency estimates there will be approximately 215 underground coal mines operating each year that would be impacted by this proposed rule.¹ All estimated figures are expressed in 2024 dollars.

Under the baseline scenario mine operators would continue their current practice of making changes to their roof control plans as deemed necessary by their District Manager, not required elsewhere in existing regulations. Under the proposed rule mine operators would no longer need to include plan requirements not specified in the statute or regulations.

¹ Number of mines inspected at least once in 2024 and the mine's current status is listed as active, intermittent, or nonproducing active on April 14, 2025.

Benefits

Under this proposed rule mine operators would no longer be required to incorporate novel or unspecified provisions into roof control plans at the discretion of the District Manager. This change does not impact the existing requirements for the roof control plans that mine operators are required to implement. This action will remove improper regulatory burden and reduce arbitrary and unforeseen demands on mine operators.

The benefits associated with the proposed rule cannot be easily quantified due to existing information gaps and challenges with quantifying the incremental shifts in costs and benefits under the proposed rule. However, benefits are discussed in a qualitative manner as described below. The potential benefits of the proposed rule include:

(1) reduced production delays for mines – faster plan approval can enable earlier initiation or resumption of mining operations, reducing downtime, and increasing operational efficiency;

(2) improved resource allocation – predictable and consistent plan requirements reduce the need for mine operators to hire consultants or devote engineering resources to anticipate or respond to unpredictable District Managers' additional criteria;

(3) regulatory certainty – by aligning plan requirements strictly with the regulations, operators can better plan capital expenditures, staffing, and compliance investments, improving long-term planning and cost efficiency; and

(4) increased domestic energy production – more predictable plan approval processes may allow mines to optimize coal output, supporting national energy goals and supply chain stability.

(5) prevents unauthorized rulemaking – preventing extra-statutory, unaccountable and unauthorized rulemaking restores confidence in the administrative process. MSHA requests public comments on potential benefits associated with this proposed rule.

Cost Savings

MSHA estimates that mine operators would accrue a cost reduction from efficiencies associated with specific and consistent roof control plan requirements, both for initial plans and revisions. Removing the provision asserting broad District Manager discretion with respect to roof control plan requirements would result in cost savings to mine operators who would be better able to anticipate required plan revisions and receive plan approval more quickly. MSHA estimates that mine operators would accrue a cost reduction from no longer having to revise roof control plans at the request of the District Manager. The Agency estimates that each year there are 84 new roof control plans, and 482 revised roof control plans submitted to MSHA. Of which, 50 percent (283 plans)² would need to be revised specifically at the discretion of the District Manager. MSHA requests comment on the number of plans that would be impacted by this proposal.

MSHA used data from the May 2024 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates³ and adjusted the rates for benefits,⁴ wage inflation,⁵ and overhead costs.⁶ The analysis period is 10 years.

The cost savings generated by the proposed rule consists of the following:

1. Revisions to Roof Control Plans Required by the District Manager

² 283 revised plans at the request of the District Manager= (84 new plans + 482 revised plans) x 50%.

³ To obtain OEWS data, follow BLS's directions in its Frequently Asked Questions: "E. How to get OEWS data. 4. What are the different ways to obtain OEWS estimates from this website?" at https://www.bls.gov/oes/oes_ques.htm.

⁴ The benefit multiplier comes from BLS Employer Costs for Employee Compensation accessed by menu at <http://data.bls.gov/cgi-bin/srgate> or directly at <http://download.bls.gov/pub/time.series/cm/cm.data.0.Current>. Insert the data series CMU2030000405000D and CMU2030000405000P, Private Industry Total benefits for Construction, extraction, farming, fishing, and forestry occupations, which is divided by 100 to convert to a decimal value. MSHA uses the latest 4-quarter moving average 2024Q1-2024Q4 to determine that 31.2 percent of total loaded wages are benefits. MSHA computes the benefit multiplier with a number of detailed calculations, but it may be approximated with the formula $1 + (\text{benefit percentage} / (1 - \text{benefit percentage}))$. The benefit multiplier is $1.453 = 1 + (0.312 / (1 - 0.312))$.

⁵ Wage inflation is the change in Series ID: CIS2020000405000I; Seasonally adjusted; Series Title: Wages and salaries for Private industry workers in Construction, extraction, farming, fishing, and forestry occupations, Index. (<https://data.bls.gov/cgi-bin/srgate>; Inflation Multiplier = (Current Quarter Cost Index Value / OEWS Wage Base Quarter Index Value). The inflation multiplier is determined by using the employment price index from the most current quarter, 2024Q4, divided by the base year and quarter of the OEWS employment and wage statistics, 2024Q2. The inflation multiplier is $1.022 = 166.7/163.1$.

⁶ MSHA uses an overhead rate of 17 percent. This overhead rate is based on a 2002 EPA report by Cody Rice, "Wage Rates for Economic Analysis of the Toxics Release Inventory Program", available at <https://www.regulations.gov/document/EPA-HQ-OPPT-2016-0387-0064>.

MSHA assumes that under the baseline each year there are 283 new and revised roof control plans that are revised at the District Managers discretion. MSHA estimates that it takes a coal mine supervisor, earning \$95.72 per hour, 4 hours to make the requested revisions. Under the proposed rule these revisions would no longer need to be made, creating an annual cost saving of \$108,355⁷.

2. Copying and Mailing Roof Control Plans

In the process of submitting roof control plans to MSHA, the operator is expected to incur a cost to mail in any physical plans or revisions. MSHA assumes that 100 percent of new plans and plan revisions are submitted to MSHA physically via the mail. Under the baseline the 283 plans that would have had to be resubmitted with revisions to meet the District Manager's requirements. At a cost of \$6 per plan for copying (20 pages per plan, \$0.15 per page) and mailing (\$3.00 per plan), by removing this requirement regarding the District Manager would lead to an annual cost saving of \$1,698⁸.

Summary

Removing the provisions concerning the District Manager's requirements for roof control plans would result in cost savings to mine operators through avoided revisions to roof control plans that would have been requested by the District Manager under the existing regulation. Under the proposed rule, incremental cost savings are estimated at \$1.1 million over 10 years undiscounted. These cost savings include no longer revising roof control plans to meet non-statutory or regulatory requirements by the District Manager and the avoided costs of copying and mailing revised roof control plans. For this proposed rule, the Agency estimates that the annualized cost saving across the three discount rates of 0 percent, 3 percent, and 7 percent would be \$110,053.

⁷ \$108,355 = 283 plans x \$95.72 per hour x 4 hours.

⁸ \$1,698 = ((20 pages x \$.15 cost per page) + \$3 mailing cost) x 283 plans.

While cost savings are quantified, some benefits are addressed in a qualitative manner, such as reduced production delays, improved resource allocation, regulatory certainty, increased domestic energy production, and prevention of unauthorized rulemaking. More efficient approval of roof control plans is expected to result in other cost savings, including earlier initiation (or resumption) of production and revenue due to simplified plan and amendment approvals, lower costs associated with subject matter expert consultants hired by mine operators in response to unanticipated Agency requirements, and other efficiencies generated by increased regulatory predictability resulting from this action. Benefits of the proposed rule could result from a more efficient Agency review and approval of roof control plans for underground coal mines.

Underground coal mine operators are expected to benefit from the proposed rule that clarifies the information and provisions required in roof control plans. This is expected to help ease operator confusion regarding what content is required when developing roof control plans for MSHA approval and to result in an increase in the time value of revenues generated by coal production. Another potential benefit to the public is the increased opportunity to produce coal, which would improve American energy production. The proposed rule is deregulatory because it reduces qualitative burdens for mine operators. Additionally, the Agency experience supports cost savings that are not yet quantified.

MSHA requests comments on potential benefits or costs associated with this proposed action.

Significance Determination

Under section 6(a) of E.O. 12866, the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and whether the Agencies are required to submit the regulatory action to OIRA for review. Under section 3(f) of E.O. 12866, a "significant regulatory action" is a regulatory action that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$100 million or more, or adversely affect in

a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant);

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

OIRA has designated this rule a "significant regulatory action" under section 3(f) of E.O. 12866. Accordingly, it will be reviewed by OMB.

No alternatives are considered for this proposed deregulatory action. MSHA requests comments on alternatives within the Agency's authority that would generate similar or greater benefits.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires preparation of an Initial Regulatory Flexibility Analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The RFA defines small entities to include small businesses, small organizations, including not-for-profit organizations, and small governmental jurisdictions.

Under the RFA, MSHA uses the Small Business Administration's (SBA) definition to set thresholds for small business sizes for the MNM and coal mining industries defined at the 6-digit North American Industry Classification System (NAICS) level. For underground coal mines the

threshold is 1,500 employees and MSHA estimated that 115 underground coal mines are defined as small.

MSHA evaluated data routinely provided by mine operators related to the number of mines, employment, and production from MSHA's Standardized Information System (MSIS) for underground coal mines. MSHA calculated revenue as production times the average price of coal. Using internal data, MSHA estimates that small coal mines produce roughly 92.1 million tons of coal annually. Using U.S Energy Information Administration Annual Coal Report 2023 Table 28, Average Sales Price of Coal by State and Mine Type, the average coal price for was \$54.04 per short ton in 2023. The price was then adjusted to 2024 dollars using CPI-U, \$55.63 per short ton, to estimate national coal revenues generated by small coal mines of \$5.1 billion.

MSHA assesses the impact on small entities by comparing the estimated costs, in this case cost savings, of the proposed rule on small entities affected by the rule to the estimated revenues for those small entities. When estimated compliance costs are less than 1 percent of the estimated revenues, the Agency believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. When estimated compliance costs exceed 1 percent of revenues, MSHA investigates whether further analysis is required. The impact of the proposed rule, as a percentage of revenues, is essentially zero: for small coal mine operators the total annualized cost is \$0.11 million while total annual revenue is \$5.1 billion, resulting in a ratio of 0.002 percent. Thus, no further analysis is required.

MSHA considered the costs on small mines when developing the proposed rule. MSHA reviewed this proposed rule, which eliminates burdensome regulations, under the provisions of the RFA. MSHA initially concludes that the impacts of this proposed rule would not have a 'significant economic impact on a substantial number of small entities,' and that the preparation of an IRFA is not warranted. MSHA will transmit this certification and supporting statement of

factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) provides for the Federal Government's collection, use, and dissemination of information. The goals of the Paperwork Reduction Act include minimizing paperwork and reporting burdens and ensuring the maximum possible utility from the information that is collected under 5 CFR part 1320. The Paperwork Reduction Act requires Federal agencies to obtain approval from OMB before requesting or requiring “a collection of information” from the public.

This proposed rule imposes no new information collection or record-keeping requirements. However, this proposed rule would result in substantive changes to another currently approved information collection request, OMB Control Number 1219-0004 “Roof Control Plan for Underground Coal Mines.” The currently approved information collection request covers requirements in 30 CFR part 75, which sets forth the procedures and rules to govern the submission and approval of roof control plans.

Type of Review: Substantive Change to currently approved information collection

OMB Control Number: 1219-0004

Title: Roof Control Plan for Underground Coal Mines

Description of the ICR:

Background

The proposed rule would apply to all underground coal mines. The existing rule allows the District Manager the discretion to revise roof control plans, while the proposed rule would decrease the burden currently faced by mine operators of having to revise their roof control plans when required by the District Manager.

Based on MSHA’s records, there were 167 active underground coal mines from

December 2022 to November 2023.

1. New Roof Control Plans and Revisions (30 CFR 75.215, 75.220(a)(1), and 30 CFR 75.221(a), 30 CFR 75.223(a))

- 1-1. New Roof Control Plans (30 CFR 75.215, 75.220(a)(1), and 30 CFR 75.221(a))

Under 30 CFR 75.220, each underground coal mine operator must develop a roof control plan that includes the information specified in 30 CFR 75.221(a). Under 30 CFR 75.215, mine operators must specify the methods in the roof control plan that will be used to maintain a safe travelway out of the longwall mining section through the tailgate side of the longwall and the procedures that will be followed if a ground failure prevents travel out of the section through the tailgate side of the longwall.

On average, 84 new roof control plans were submitted annually by 58 of the 167 underground coal mines. Of which, 50 percent (42 new plans) would need to be revised specifically at the discretion of the District Manager. While roof control plans vary according to the size and complexity of each individual mine, MSHA estimates that on average it takes a mine supervisor, earning \$95.72 per hour, approximately 12 hours to prepare a new roof control plan. MSHA employees with experience preparing roof control plans while employed by industry have helped the Agency substantiate the time required to produce roof control plans.

This proposed rule would result in a reduction of information collection costs. The number of annual respondents would remain unchanged at 58, the number of annual responses decreases from 84 to 42, the annual burden hour would decrease from 1,008 to 504 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0.

- 1-2. Revised Roof Control Plans (30 CFR 75.223(a))

Under 30 CFR 75.223(a), a mine operator must propose revisions to the roof control plan when conditions indicate that the plan is not suitable or when accident and injury experience at the mine indicates the plan is inadequate. Revisions may be required as a response to an existing problem, or when instituting new technology, or as a cost savings to the mine operator.

MSHA estimates that each mine operator may need to submit plan revisions. An operator may submit more than one revision per year if conditions require it. In 2023, MSHA received 482 plan revisions submitted by 167 underground coal mines. Of which, 50 percent (241 revised plans) would need to be revised specifically at the discretion of the District Manager. MSHA estimates that it takes a mine supervisor, earning \$95.72 per hour, approximately 4 hours to draft a plan revision.

This proposed rule would result in a reduction in information collection costs. The number of annual respondents remains unchanged at 167, the number of annual responses would decrease from 482 to 241, the annual burden hour would decrease from 1,928 to 964 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0.

Copy and Mail New and Revised Roof Control Plans

Mine operators are expected to mail every new (42) and revised (241) roof control plan to MSHA. MSHA estimates that the average copying and mailing cost for the 283 new roof control plans or plan revisions is \$6.

This proposed rule would result in a reduction in information collection costs. The number of annual respondents would remain unchanged at 167, the number of annual responses would decrease from 566 to 283, and the annual recordkeeping cost to respondents would decrease from \$3,369 to \$1,698.

2. Unplanned Roof or Rib Fall and Coal or Rock Burst (30 CFR 75.223(b))

Underground coal mine operators are also required to plot each unplanned roof fall, rib fall, and coal rock burst on a mine map when such incidents meet the criteria specified in 30 CFR 75.223(b). MSHA estimates that it takes a mine supervisor, earning \$95.72 per hour, 5 minutes to plot a roof fall or a coal or rock burst on a map. There were approximately 453 unplanned roof falls and coal or rock bursts which met such specified criteria and that occurred in underground coal mines in 2023.

This proposed rule would not impact this information collection cost. The number of annual respondents would remain unchanged at 167, the number of annual responses would remain unchanged at 453, the annual burden hour would remain unchanged at 38 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0.

Summary of the Collection of Information

Under the proposed rule, the estimated number of respondents, responses, burden hours and recordkeeping costs to respondents would decrease from the currently approved information collection request. The reduction in information collection costs comes from removing the requirement of revising roof control plans at the discretion of the District Manager.

Affected Public: Businesses or For-Profit

Estimated Number of Respondents: 167 (0 due to this proposed rule)

Frequency: On occasion

Estimated Number of Responses: 736 (-283 due to this proposed rule)

Estimated Number of Burden Hours: 1,506 (-1,468 hours due to this proposed rule)

Estimated Recordkeeping Costs to Respondents: \$1,698 (-\$1,698 due to this proposed)

D. Review Under Executive Order 13132

E.O. 13132, "Federalism," 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

MSHA has examined this proposed rule and has determined that it would not have a substantial direct effect 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.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. MSHA has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year

(adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b)). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

MSHA examined this proposed rule according to UMRA and determined that the proposed rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), requires each Federal agency to consider the environmental effects of regulatory actions and to prepare an environmental impact statement on Agency actions that would significantly affect the quality of the environment; unless the action is considered categorically excluded under 29 CFR 11.10. MSHA has reviewed the proposed rule in accordance with NEPA requirements and the Department of Labor’s NEPA procedures (29 CFR part 11). As a result of this review, MSHA has determined that this proposed rule would not impact air, water, or soil quality, plant or animal life, the use of land or other aspects of the human environment. Therefore, MSHA has not conducted an environmental assessment nor provided an environmental impact statement.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or

integrity of the family as an institution. Accordingly, MSHA has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), MSHA has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002). MSHA has reviewed this proposed rule under the OMB and has concluded that it is consistent with applicable policies in the OMB guidelines.

K. Review Under Executive Order 13175

E.O. 13175, “Consultation and Coordination With Indian Tribal Governments” 65 FR 67249 (Nov. 9, 2000), requires agencies to consult with tribal officials when developing policies that may have “tribal implications.” This proposed rule does not have “tribal implications” because it will not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” Accordingly, under E.O. 13175, no further Agency action or analysis is required.

L. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” 66 FR 28355 (May 22, 2001), requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply,

distribution, or use. MSHA has reviewed this proposed rule for its energy effects. For the energy analysis, this proposed rule will not exceed the relevant criteria for adverse impact.

M. Review Under Additional Executive Orders and Presidential Memoranda

MSHA has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy” 90 FR 8353 (Jan. 29, 2025); E.O. 14192, “Unleashing Prosperity Through Deregulation” 90 FR 9065 (Feb. 6, 2025); and the Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis” 90 FR 8245 (Jan. 28, 2025). This proposed rule is expected to be an E.O. 14192 deregulatory action.

List of Subjects

30 CFR Part 75

Mine safety and health; Underground coal mines; Roof control plans; District Managers

For the reasons set forth in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA proposes to amend 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, 813(h), 957.

Subpart C- Roof Control

2. In § 75.222, revise paragraph (a) to read as follows:

§ 75.222 Roof control plan-approval criteria.

(a) This section sets forth the criteria that shall be considered on a mine-by-mine basis in the formulation and approval of roof control plans and revisions. Roof control plans that do not conform to the applicable criteria in this section may be approved by the District Manager, provided that effective control of the roof, face and ribs can be maintained.

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Mine Safety and Health Administration.

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