



## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

#### **30 CFR Part 48**

**[Docket No. MSHA-2025-0085]**

**RIN 1219-AC19**

#### **Training and Retraining of Miners**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** MSHA proposes to revise its regulations to eliminate provisions that allow District Managers to require changes in, or additions to, training programs. The current regulations appear to 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 related to undesignated and unpredictable requirements.

**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-AC19 or Docket No. MSHA-2025-0085. 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-AC19 or Docket No. MSHA–2025–0085, by any of the following methods:

1. *Federal E-Rulemaking Portal*: <https://www.regulations.gov>. Follow the online instructions for submitting comments for MSHA-2025-0085. A brief summary of this document will be available at <https://www.regulations.gov/docket/MSHA-2025-0085>.

2. *Email*: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include “RIN 1219-AC19” 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.

**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, “[e]ach operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary.” 30 U.S.C. 825(a). Further, by statute, the Secretary of Labor must set out “mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.” 30 U.S.C. 811(a).

MSHA has adopted regulations to implement 30 U.S.C.825(a) to include the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working in underground mines. 30 CFR 48.1. Each mine operator must “have an MSHA approved plan containing programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners...” 30 CFR 48.3(a).

MSHA regulations also set out detailed criteria for the information required in training programs. For example, each operator must submit “the name and position of the person designated by the operator who is responsible for health and safety training at the mine.” 30 CFR

48.3(c)(2). “The operator shall furnish to the representative of the miners a copy of the training plan two weeks prior to its submission to the District Manager.” 30 CFR 48.3 (d). “The training shall include instruction in the health and safety aspects and the safe operating procedures related to the assigned tasks, including information about the physical and health hazards of chemicals in the miner's work area, the protective measures a miner can take against these hazards, and the contents of the mine's HazCom program.” 30 CFR 48.7(a)(1). “The annual refresher training program for all miners shall include the following courses of instruction: Mandatory health and safety standard; Transportation Controls and communication systems; Barricading; Roof or ground control, ventilation, emergency evacuation and firefighting plans; First aid, Electrical hazards; Prevention of accidents; Self-rescue and respiratory devices; Explosives; Mine gases, Health.” 30 CFR 48.8(b)(1)-(11).

The regulations also include detailed requirements for instruction including, for example, hazard recognition and avoidance; emergency and evacuation procedures; health and safety standards, safety rules, and safe working procedures; and use of self-rescue and respiratory devices. 30 CFR 48.11(a)(1)-(4). Miners must receive instruction on these subjects “at least once every 12 months.” 30 CFR 48.11(b). The training and retraining plan has the force and effect of “law” at the mine. The mine may be cited for violation of the training and retraining plan and mine personnel may be held personally liable, civilly and criminally for violations of the training and retraining plan.

Various regulations in Part 48 also give the District Manager broad authority to add regulatory requirements to the training plan, which are neither described, nor required, by regulations or 30 U.S.C. 825. Specifically, several regulations currently state, without limitation, that mine operators must include in the training and retraining plan “[s]uch other courses as may be required by the District Manager based on circumstances and conditions at the mine.” 30 CFR 48.5(b)(14), 48.6(b)(13), 48.8(b)(12), 48.7(a)(4), 48.11(a)(5), 48.25(b)(13), 48.26(b)(12), 48.27(a)(4), 48.28(b)(11) and 48.31(a)(5). Moreover, 30 CFR 48.3 provides: “If it is deemed

necessary, the District Manager may require changes in, or additions to, programs.” 30 CFR 48.3.

## II. Discussion

MSHA is proposing to remove the power of District Managers to require additional courses to training and retraining plans, beyond the criteria set out in 30 U.S.C. 825, and 30 CFR part 48. MSHA has reevaluated its regulations and tentatively concluded that the significant authority and discretion granted to District Managers in 30 CFR 48.5(b)(14), 48.6(b)(13), 48.8(b)(12), 48.7(a)(4), 48.11(a)(5), 48.25(b)(13), 48.26(b)(12), 48.27(a)(4), 48.28(b)(11), 48.31(a)(5) and 30 CFR 48.3. to require undesignated additions to training plans, violates 30 U.S.C. 825, the Appointments Clause and the APA.

While mine operators are required by statute to prepare and submit “training plans,” and while MSHA has promulgated regulations setting forth specific contents and requirements for training plans, nothing in the plain text of the underlying statutes, including 30 U.S.C. 825 and 30 U.S.C. 811(a), can be read to permit the unfettered addition of “[s]uch other courses as may be required by the District Manager based on circumstances and conditions at the mine” or undesignated additions to the safety training programs, simply because they are deemed necessary by the District Manager. 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 these regulatory clauses.

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 §§ 48.5(b)(14), 48.6(b)(13), 48.7(a)(4), 48.25(b)(13), 48.26(b)(12), and 48.27(a)(4), District Managers are granted nearly unlimited discretion to add additional courses to training and retraining plans as they deem appropriate. Accordingly, because District Managers are not appointed pursuant to the Appointments Clause, that substantial authority is unlawful.

Independently, the significant discretion in §§ 30 CFR 48.5(b)(14), 48.6(b)(13), 48.8(b)(12), 48.7(a)(4), 48.11(a)(5), 48.25(b)(13), 48.26(b)(12), 48.27(a)(4), 48.28(b)(11) and 48.31(a)(5) appear to violate the APA. The authority given to District Managers to add courses essentially amounts to the unfettered ability 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 and 825 give the Secretary authority to issue health and safety regulations for mines including requirements for mines to have a health and safety training program which must be approved by the Secretary. 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. 30 CFR 48.5(b)(14), 48.6(b)(13), 48.7(a)(4), 48.25(b)(13), 48.26(b)(12), 48.27(a)(4) and 48.28(b)(1)(11) skip this process entirely when they vest District Managers with the authority to require undesignated training plan provisions. The District Manager, by adding additional courses for training and retraining plans, is promulgating new substantive rules of particular applicability, without any of the necessary process. Thus, §§ 30 CFR 48.5(b)(14), 48.6(b)(13), 48.8(b)(12), 48.7(a)(4), 48.11(a)(5), 48.25(b)(13), 48.26(b)(12), 48.27(a)(4), 48.28(b)(11) and 48.31(a)(5) appear to violate the APA.

MSHA seeks comment 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 Order 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 and surface mines. The existing rule allows the District Manager to add courses as deemed necessary and not specified in statute or regulations to training and retraining programs, 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 add extra courses not specified in the statute or regulations to their training programs when required by the District Manager.

On average each year, MSHA reports that there are 1,719 underground mines that employ 97,158 miners (excluding office employees). Additionally, there are 3,213 contractor companies that employ 45,867 miners who work at underground mines. For surface mines, there are 11,969 mines that employ 151,322 miners (excluding office employees). Additionally, there are 5,496 contractor companies that employ 78,552 miners who worked at surface mines. Therefore, MSHA estimates that there would be each year a total of 4,932 underground mines/contractor companies employing 143,025 underground miners, and 17,465 surface mines/contractor companies employing 229,874 surface mining workers be impacted by this proposed rule.<sup>1</sup> All estimated figures below are expressed in 2024 dollars.

Under the baseline scenario mine operators would continue their current practice of making changes to their training programs as deemed necessary by their District Manager, not required elsewhere in existing regulations. Under the proposed rule mine operators would no longer need to add courses as deemed necessary by the District Manager and not specified in statute or regulations to training and retraining programs.

### *Benefits*

Under this proposed rule mine operators would no longer be required to make additional changes to their training programs at the discretion of the District Manager. This change does not impact the existing requirements for the training programs that mine operators are required to implement. This action will remove improper regulatory burden from 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

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<sup>1</sup> 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.

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;

(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; and;

(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 no longer having to add courses or subjects, not specifically identified in the standard, to training programs at the request of the District Manager. The Agency estimates that each year 351 new training plans and 140 revised training plans are submitted to MSHA. Of which, 50 percent (246<sup>2</sup> new and revised plans) would need to be revised specifically at the discretion of the District Manager. MSHA requests comments on the estimated number of plans that would be impacted by this proposal.

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<sup>2</sup> 246 = (351 new training plans+140 revised training plans) x 50% (Rounded).

MSHA used data from the May 2024 Occupational Employment and Wage Statistics (OEWS) published by the Bureau of Labor Statistics (BLS) for hourly wage rates<sup>3</sup> and adjusted the rates for benefits,<sup>4</sup> wage inflation,<sup>5</sup> and overhead costs.<sup>6</sup> The analysis period is 10 years.

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

1. Revising Training Plans Required by the District Manager

MSHA assumes that under the baseline each year there are 246 new and revised training plans that are revised at the District Managers discretion. MSHA estimates that it takes a mine supervisor, earning \$82.31 per hour, 1 hour to make the requested revisions. Under the proposed rule these revisions would no such revisions, creating an annual cost saving of \$20,248.<sup>7</sup>

2. Providing Copies of Revised Plans to Miners, Their Representatives, or Posting at the Mine Sites after District Manger's Requirements

MSHA assumes mine operators provide miners or their representatives with one copy of the training plan at each stage of the approval process. Currently, the mine operator needs to provide a copy of the plan to miners or their representatives prior to submitting it to the District Manager for approval and another copy after the plan is approved. Under the baseline, if the District Manager requires revisions, mine operators would have to provide a further copy before

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<sup>3</sup> 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](https://www.bls.gov/oes/oes_ques.htm).

<sup>4</sup> 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  $1.453 = 1 + (0.312 / (1 - 0.312))$ .

<sup>5</sup> 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  $1.022 = 166.7 / 163.1$ .

<sup>6</sup> 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>.

<sup>7</sup>  $\$20,248 = 246 \text{ revisions} \times \$82.13 \text{ per hour} \times 1 \text{ hour}$ .

resubmitting the plan to the District Manager, after the requested changes have been made.

Under the proposed rule mine operators would still need to provide a copy of the training plan to miners or their representatives before submission to MSHA and after MSHA approval. However they would no longer be resubmitting them in order to address the District Manager's requirements, and would thus no longer need to provide a copy before that resubmission.

MSHA estimates that it takes a clerk, earning \$45.33 per hour, 5 minutes to generate a copy of the training plan, provide it to miners or their representatives, or post it on the mine's bulletin boards. Under the proposed rule, this step would not be necessary for the 246 plans that would have to be revised at the District Manager's discretion. Thus, the required time would be reduced by 20.5<sup>8</sup> hours and there would be an annual cost saving of \$929<sup>9</sup>.

MSHA also assumes that an average copy would have a materials cost of \$0.50. The proposed rule would reduce mine operators' costs by \$123<sup>10</sup> per year by no longer requiring them to provide physical copies of training plans that have been revised as requested by the District Manager.

### 3. Copying and Mailing Training Plans

In the process of submitting training plans to MSHA, the operator is expected to incur a cost to mail in any physical new plans or revisions. Under the baseline, MSHA assumes that 65 percent of plans and plan revisions are submitted to MSHA electronically and have no associated copying or mailing costs. The remaining 35 percent would be mailed in. This translates to 86 of the 246<sup>11</sup> plans that are revised at the District Manager's request. At a cost of \$2 per plan for copying and mailing, by removing this requirement regarding the District Manager, would lead to a cost saving of \$172<sup>12</sup> every year.

#### *Summary*

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<sup>8</sup> 20.5 hours = 5 minutes per plan x 246 plans.

<sup>9</sup> \$929 = 20.5 hours x \$45.33 per hour.

<sup>10</sup> \$123 = \$.50 cost per copy x 246 plans.

<sup>11</sup> 86 mailed plans = 246 plans x 35 percent (Rounded).

<sup>12</sup> \$172 = 86 mailed in training plan revisions x \$2 mailing cost per revision.

Removing the provisions concerning District Manager requirements for training programs would result in cost savings to mine operators through avoided revisions to training plans that would have been requested by the District Manager under the existing regulation. Under the proposed rule, incremental cost savings are estimated at \$0.213 million over 10 years undiscounted. These cost savings include no longer revising training plans to meet non-statutory or regulatory requirements imposed by the District Manager, providing copies of revised plans to miners and their representatives, and the avoided costs of copying and mailing revised training 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 \$21,473.

While the potential cost savings are quantified, potential benefits such as reduced production delays, improved resource allocation, regulatory certainty, and increased domestic energy production, ore and minerals production, and unauthorized rulemaking are addressed qualitatively. More efficient approval of training 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 and trainers 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 also result from a more efficient Agency review and approval of training plans for mines. Mine operators are expected to benefit from the proposed rule that clarifies the information and provisions required in training plans. This is expected to help ease operator confusion regarding what content is required when developing training plans for MSHA approval and to result in an increase in the time value of revenues generated by mine production. Another potential benefit to the public is the increased opportunity to improve production of ore and minerals, including critical minerals, and coal which would improve American energy production. The proposed rule is deregulatory because it reduces qualitative burdens for mine operators. Additionally, the Agency's experience supports further cost savings that are not yet

quantified. MSHA requests comments on potential disbenefits 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 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 determined that the proposed rule constitutes 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 public comments on alternatives to this proposal 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 mining industry defined at the 6-digit North American Industry Classification System (NAICS) level. For MNM mines the thresholds range from 500 – 1,500 employees depending on the specific commodity. For underground coal mines the threshold is 1,500 employees, and for surface coal mines the threshold is 1,250 employees. MSHA estimates that there are 5,984 small mines, including 5,232 small MNM mines and 752 small coal mines.

MSHA estimates the total annual revenues for MNM commodities to be \$105.6 billion. This was calculated using the 2024 production values for all metal and industrial minerals reported in U.S. Geological Survey' Mineral Commodity Summaries 2025 Report. Using MSHA internal data the agency estimates that \$44.0 billion of total revenues were generated by small MNM mines.

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 that national coal revenues generated by small coal mines of \$5.1 billion in revenue.

MSHA assesses the impacts on small entities by comparing the estimated costs, in this case cost saving, 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 mine operators the total annualized cost is estimated to be \$21,473, while their annual revenue is estimated at \$49.1 billion (MNM and coal mines combined), resulting in the ratio of 0.00004 percent. This proposed rule has little impact on revenues for small mine operators. Thus, no further analysis is required.

MSHA considered the compliance costs on small mines when developing the proposed rule and reviewed this proposed rule under the provisions of the RFA. The proposed rule eliminates burdensome regulations and results in cost savings of less than 1 percent of annual revenues. Therefore, MSHA certifies that the proposed rule would not have a 'significant economic impact on a substantial number of small entities'. 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 the Office of Management and

Budget (OMB) before requesting or requiring “a collection of information” from the public.

### *Background*

By no longer requiring mine operators to add courses to training plans at the sole discretion of the District Manager this proposed rule imposes no new information or record-keeping requirements. It does result in substantive changes to a currently approved information collection request, OMB Control Number 1219-0009 “Training Plans and Records of Training for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines.”

### *Summary of Changes*

On average, MSHA estimates that under the proposed rule that annually there would be 1,719 underground mines employing 97,158 miners (excluding office employees). Additionally, MSHA estimates that there would be 3,213 contractor companies employing 45,867 miners who work at underground mines. For surface mines, MSHA estimates that there would be 11,969 mines employing 151,322 miners (excluding office employees). Additionally, MSHA estimates that there would be 5,496 contractor companies employing 78,552 miners who worked at surface mines. Therefore, MSHA estimates that there would be each year a total of 4,932 underground mines/contractor companies employing 143,025 underground miners, and 17,465 surface mines/contractor companies employing 229,874 surface mining workers be impacted by this proposed rule, totaling 22,397 operations employing 372,899 miners.

The number of respondents, frequency of response, annual hour burden, and recordkeeping cost are described below.

#### 1. Developing and Revising Training Plans (30 CFR 48.3 and 48.23)

Under 30 CFR 48.3 and 48.23, underground and surface mine operators are required to have an MSHA-approved training plan. When new task training is required, mine operators must revise their training plan to include each new task. This revision must include a complete list of task assignments, the titles of personnel conducting the training, the outline of training

procedures used, and the evaluation procedures used to determine the effectiveness of the training.

MSHA assumes 491 training plan submissions annually, including 351 new training plans and 140 revised training plans. MSHA estimates that 35 percent of the new training plans (123 plans) will be submitted by paper and 65 percent (228 plans) electronically. MSHA assumes that the District Manager requires revisions for 246 training plans including new and revised plans.

The plans are usually prepared by mine operator personnel. Although the burden on the mine operator is dependent to some degree upon a particular mine's size, MSHA estimates that on average it takes a mine safety specialist, earning \$78.46, 8 hours to prepare and submit a new paper plan, 2.25 hours to complete a new plan online, and 1 hour to revise any existing plan.

This proposed rule would decrease the burden related to developing and revising training plans as requested by the District Manager. There would be a decrease the number of new plans from 351 to 175 and the number of revised plans would drop from 140 to 70, which corresponds to a decrease of time burden of 815 hours. This proposed rule would result in a reduction of information collection costs. The annual number of respondents would decrease from 491 to 245, the annual number of responses would decrease from 491 to 245, the annual burden hour would decrease from 1,637 to 815 hours, and the annual recordkeeping cost to respondents would remain unchanged at \$0 to develop and revise training plans.

## 2. Providing Copies of Training Records to Miners - MSHA Form 5000-23 (30 CFR 48.9 and 48.29)

Under 30 CFR 48.9 & 48.29, upon a miner completing each MSHA-approved training program, the operator must record and certify that the miner has received the specified training. The mine operator uses MSHA Form 5000-23, Certificate of Training, to record and certify that the miner has received the specified training. The form is completed by the instructor after the completion of each training program. All training courses completed within the miner's 12-

month training cycle may be recorded on one form, including the courses required by the District Manager.

A copy of the form is given to the miner at the end of the 12-month cycle. Additionally, a copy of the form is given to the miner after the completion of a training program at the miner's request. MSHA assumes that the copies of these training certificates are provided electronically to miners and that operators incur no cost associated with producing copies of training certificates.

MSHA estimates that 45 percent of the miners' training (64,361 out of 143,025 miners) is conducted by an employee of the mine operator. Another 25 percent of the training (35,776 miners) is conducted by independent training contractors hired by the mine operator. The remaining 30 percent of the training is conducted by State trainers funded by sources that include Federal grants and incur no cost to mine operators.

Although all the training completed by a miner within a one-year period may be recorded on one form, training specialists estimate that for each miner, 2 forms will probably be completed annually. If the training program is conducted by an employee of the mine operator, MSHA estimates that it takes a safety specialist, earning \$78.46 per hour, 5 minutes to prepare and complete the form. If the training is conducted by independent training contractors hired by the mine operator, MSHA estimates that it takes a safety specialist, earning \$69.32 per hour, 5 minutes to prepare and complete the form.

The proposed rule does not impact this information collection cost. The number of annual respondents would remain 64,361 miners; if the trainer is a mine employee, the annual number of responses is 128,722 (2 forms per respondent), the annual burden hours is 10,727, and the annual recordkeeping cost to respondents is \$413,101.

### 3. Providing Copies of Plans to Miners, Their Representatives, or Posting at the Mine Bulletin Boards (30 CFR 48.3 and 48.23)

Under 30 CFR 48.3 & 48.23, the operator is required to provide the representative of the

miners a copy of the training plan or post a copy on the mine bulletin board at different stages of a plan: before its submission to the District Manager, after MSHA approval, and MSHA revisions and decision.

MSHA estimates that each year under the proposed rule there are 175 new training plans and 70 revised training plans are submitted. MSHA assumes an operator would produce one copy of the training plan on average at each stage of the plan. MSHA estimates that it takes a clerk, earning \$45.33 per hour, 5 minutes to provide a copy of the training plan or post a copy on the mine bulletin board. Each of these copies is estimated to cost \$0.50 to make. Using the above parameters from rescinding the power of the District Manager, the number of annual respondents would decrease from 491 to 245, the number of annual responses decreases from 842 to 420, and the annual burden hours would decrease from 70 to 35, and the associated annual recordkeeping cost to respondents decreases from \$421 to \$123.

#### 4. Copying and Mailing Training Plans to MSHA (30 CFR 48.3 and 48.23)

The operator is also expected to incur a cost to produce one copy of the training plans prior to submission to MSHA, after MSHA approval, and MSHA revisions and decision. Operators also need to provide the representative of the miners a copy of the training plan or post a copy on the mine bulletin board. Upon submitting the training plan to MSHA, operators and contractors may incur a cost to copy and mail their plan to MSHA Headquarters. MSHA estimates that under the proposed rule 35 percent of the 245 new and revised training plans, or 86 will be submitted by mail. This is a decrease from the 172 copies that would be submitted by mail under the current rule. The estimated mailing cost is \$2.00 per training plan by paper. Thus, the annual recordkeeping cost to respondents is anticipated to fall from \$344 to \$172.

#### *Summary of the Collection of Information:*

Under the proposed rule, the estimated number of respondents, responses, burden hours, and recordkeeping cost to respondents would decrease from the currently approved information collection request. The reduction in information collection cost comes from eliminating

provisions that allow District Managers to require changes in training programs.

*Type of Review:* Substantive Change to currently approved information collection

*OMB Control Number:* 1219-0009

*Title:* Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines

*Summary of the Collection of Information:*

The calculated burden shows a decrease in burden hours, and recordkeeping costs from the currently approved information collection request.

*Affected Public:* Businesses or For-Profit

*Estimated Number of Respondents:* 64,606 (-246 due to this proposed rule)

*Frequency:* On occasion

*Estimated Number of Responses:* 129,387 (-668 due to this proposed rule)

*Estimated Number of Burden Hours:* 11,576 (-858 due to this proposed rule)

*Estimated Recordkeeping Costs to Respondents:* \$413,395 (-\$471 due to this proposed rule)

*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 E.O. 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 E.O. 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 proposal 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 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 rescission is expected to be an E.O. 14192 deregulatory action.

**List of Subjects**

**30 CFR part 48**

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

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 48— TRAINING AND RETRAINING OF MINERS**

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

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

2. In § 48.3, revise paragraph (e) to read as follows:

**§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.**

\* \* \* \* \*

(e) All training required by the training plan submitted to and approved by the District Manager as required by this subpart A shall be subject to evaluation by the District Manager to determine the effectiveness of the training programs. Upon request from the District Manager the operator shall make available for evaluation the instructional materials, handouts, visual aids and other teaching accessories used or to be used in the training programs. Upon request from the District Manager the operator shall provide information concerning the schedules of upcoming training.

\* \* \* \* \*

**§ 48.5 [Amended]**

3. Amend § 48.5 by removing paragraph (b)(14).

**§ 48.6 [Amended]**

4. Amend § 48.6 by removing paragraph (b)(13).

**§ 48.7 [Amended]**

5. Amend § 48.7 by removing paragraph (a)(4).

**§ 48.8 [Amended]**

6. Amend § 48.8 by removing paragraph (b)(12)

**§ 48.11 [Amended]**

7. Amend § 48.11 by removing paragraph (a)(5)

**§ 48.25 [Amended]**

8. Amend § 48.25 by removing paragraph (b)(13).

**§ 48.26 [Amended]**

9. Amend § 48.26 by removing paragraph (b)(12).

**§ 48.27 [Amended]**

10. Amend § 48.27 by removing paragraph (a)(4).

**§ 48.28 [Amended]**

11. Amend § 48.28 by removing paragraph (b)(11)

**§ 48.31 [Amended]**

12. Amend § 48.31 by removing paragraph (a)(5).

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**James P. McHugh**

Deputy Assistant Secretary for Policy

Mine Safety and Health Administration.

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