

applicable requirements of 30 CFR parts 18 through 28 shall be used underground, except for submersible sump pumps.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

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

Authority: 30 U.S.C. 811.

6. Section 75.506 is amended by revising paragraph (d) to read as follows:

§ 75.506 Electric face equipment; requirements for permissibility.

* * * * *

(d) The following equipment will be permissible electric face equipment only if it is approved under the appropriate parts of this chapter, or former Bureau of Mines' approval schedules, and it is in permissible condition:

- (1) Multiple-Shot Blasting Units, part 7, subpart D;
- (2) Electric Cap Lamps, part 19;
- (3) Electric Mine Lamps Other than Standard Cap Lamps, part 20;
- (4) Flame Safety Lamps;
- (5) Portable Methane Detectors, part 22;
- (6) Telephone and Signaling Devices, part 23;
- (7) Single-Shot Blasting Units;
- (8) Lighting Equipment for Illuminating Underground Workings; and
- (9) Methane-Monitoring Systems, part 27.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AA98

Improving and Eliminating Regulations; Approved Books and Records

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

ACTION: Proposed rule; technical amendment.

SUMMARY: MSHA is proposing to remove certain regulations on Approved Books and Records. Forms required by these regulations are obsolete. In addition, the requirements are either redundant or can be easily included in other existing standards for greater clarity. MSHA would make conforming amendments to other safety regulations, as necessary.

DATES: Submit written comments on or before November 2, 1998.

ADDRESSES: Send comments by mail to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203; by facsimile to MSHA, Office of Standards, Regulations, and Variances at 703-235-5551; or by E-mail to comments@msha.gov. MSHA encourages commenters sending written comments by mail or facsimile to also send a computer disk of the comments.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances: 703-235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

In response to the Administration's regulatory reinvention initiative, MSHA conducted a review of its existing regulations to identify obsolete, outdated, redundant, or unnecessary provisions that could be removed or revised without reducing protection afforded miners. This proposed rule is part of MSHA's ongoing plan to improve its regulations. The removal of part 75, subpart S, from title 30 of the Code of Federal Regulations (30 CFR), would not reduce protection to miners because these provisions are covered by other MSHA standards. Conforming amendments to these other MSHA standards would be made, as appropriate. This proposed rule would streamline 30 CFR 75 by improving consistency and clarity in MSHA requirements for approved books and records for underground coal mines.

II. Discussion of Proposed Rule

Existing MSHA standards in 30 CFR 75, subpart S, Approved Books and Records, contains recordkeeping requirements for certain tests and examinations conducted in underground mines. Approved books for recording test results are specified, as well as the manner in which the books are to be maintained.

Existing 30 CFR 75.1800(b) specifies approved forms on which mine operators are to record results for provisions in 30 CFR 75.1801 through 75.1808. Of these, however, only 30 CFR 75.1806 and 75.1808 remain in 30 CFR 75, subpart S. In addition, all the forms listed are obsolete and are no longer in use.

Existing 30 CFR 75.1800(c) allows mine operators to use record books kept to comply with State requirements, in lieu of the books required in 30 CFR 75, subpart S, if the MSHA district manager

determines that those books provide the information specified in any record book required by the MSHA regulation.

The only records specified in 30 CFR 75, subpart S, are those in 30 CFR 75.1806 which require that the results of monthly examinations of high voltage circuit breakers, required by 30 CFR 75.800-3 and 75.800-4, be recorded in a book entitled "Monthly Examinations of Surface High Voltage Circuit Breakers", Form 6-1293. This form is no longer in use and MSHA no longer approves record books.

Existing 30 CFR 75.1808 requires that all approved books and records maintained under the provisions of 30 CFR 75.1801 through 75.1807 be stored in a fireproof repository on the surface of the mine, in a location chosen by the mine operator, and be made available to interested persons. This provision now applies only to 30 CFR 75.1806. To be consistent with other MSHA recordkeeping requirements, and to accommodate the electronic storage of data, MSHA proposes to delete this requirement.

The proposal recognizes the increasing use of electronic storage and retrieval of information and would revise 30 CFR 75.800-4 to accommodate this technology. MSHA encourages mine operators who store records electronically to provide a mechanism which will allow the continued storage and retrieval of records in the year 2000.

In addition, MSHA proposes to add a requirement to 30 CFR 75.800-4 that clarifies that the records be retained for one year. MSHA considers this additional requirement as a non-substantive clarification of the existing standard because mine operators already are required to make these records available to an authorized representative of the Secretary, which implies that they be retained.

III. Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of regulations. MSHA has determined that this proposed rule does not meet the criteria for a significant regulatory action and, therefore, has not prepared a separate analysis of costs and benefits. The Regulatory Flexibility Act (RFA) requires regulatory agencies to consider a rule's impact on small entities. The analysis contained in this preamble meets MSHA's responsibilities under Executive Order 12866 and the Regulatory Flexibility Act.

Regulatory Flexibility Certification

In accordance with § 605 of the RFA, MSHA certifies that this proposed rule

would not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, MSHA must include in the proposed rule a factual basis for this certification. The Agency also must publish the regulatory flexibility certification in the **Federal Register**, along with its factual basis.

Factual Basis for Certification

Based on the fact that there is no substantive change in the recordkeeping requirements, MSHA has determined that there would be no impact on small businesses. No small governmental jurisdictions or nonprofit organizations are affected. The Agency believes that this analysis provides a reasonable basis for the certification in this case.

The Agency has provided a copy of this proposed rule and regulatory flexibility certification statement to the SBA Office of Advocacy. In addition, MSHA will mail a copy of the proposed rule, including the preamble and regulatory flexibility certification statement, to all affected mines and miners' representatives.

IV. Paperwork Reduction Act

No new or additional paperwork burdens are included in this proposed amendment. Test records are required in existing 30 CFR 75.800-3 and 75.800-4 and are approved under OMB control number 1219-0067. The Paperwork Reduction Act of 1995 (PRA 95), however, requires that regulations specify a time period for the retention of records. Existing 30 CFR 75.800-3 and 75.800-4 do not specify a retention period for maintaining these required test records. MSHA, consistent with other MSHA recordkeeping requirements, is proposing that these records be kept for at least one year.

V. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or by the private sector.

VI. Executive Order 13045

In accordance with Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, MSHA has evaluated the environmental health and safety risks of the proposed rule on children. The Agency has determined that the proposed rule would have no effects on children.

List of Subjects in 30 CFR Part 75

Mine safety and health, Reporting and recordkeeping requirements, Underground coal mines.

Dated: August 24, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

For the reasons discussed in the preamble, MSHA proposes to amend part 75, subchapter O, chapter I, title 30 of the Code of Federal Regulations as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

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

Authority: 30 U.S.C. 811.

2. Section 75.800-4 is revised to read as follows:

§ 75.800-4 Testing, examination, and maintenance of circuit breakers; record.

(a) *Recordkeeping.* The operator shall make a record of each test, examination, repair, or adjustment of all circuit breakers protecting high-voltage circuits which enter any underground area of the mine.

(b) *Record security.* These records shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration.

(c) *Retention and access.* These records shall be retained at a surface location at the mine for at least one year and shall be made available to authorized representatives of the Secretary, the representative of miners, and other interested persons.

Subpart S of Part 74—[Removed and reserved]

3. Part 75 subpart S—Approved Books and Records, consisting of §§ 75.1800, 75.1806, and 75.1808, is removed and reserved.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 71, and 90

RIN 1219-AA98

Improving and Eliminating Regulations; Calibration and Maintenance Procedures for Coal Mine Respirable Dust Samplers

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

ACTION: Proposed rule; technical amendment.

SUMMARY: MSHA has revised and updated its Informational Report No. 1121 (IR 1121) to include currently approved sampling equipment and to permit the use of fast-response calibrators having a volumetric tube. The updated document is Informational Report No. 1240 (IR 1240). This proposed rule would update the existing incorporation by reference of IR 1121 in MSHA's coal mine respirable dust standards to reference IR 1240.

DATES: Submit all comments by November 2, 1998.

ADDRESSES: Send comments by mail to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203; by facsimile to MSHA, Office of Standards, Regulations, and Variances at 703-235-5551; or by E-mail to comments@msha.gov. MSHA encourages commenters sending written comments by mail or facsimile to also send a computer disk of the comments. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for MSHA, 725 17th Street NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director; Office of Standards, Regulations, and Variances, MSHA; 703-235-1910.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposal

Existing coal mining regulations §§ 70.204, 71.204, and 90.204 in title 30 of the Code of Federal Regulations (30 CFR) require that approved respirable dust sampling devices be calibrated in accordance with MSHA Informational Report No. 1121 (IR 1121) "Standard Calibration and Maintenance Procedures for Wet Test Meters and Coal Mine Respirable Dust Samplers (Supersedes IR 1073)." These