

410, 104 Stat. 890) to require generally that the head of each Federal agency adjust the civil monetary penalties subject to its jurisdiction for inflation within 180 days after enactment of the Act and at least once every four years thereafter.

§ 2575.502c-5 Adjusted civil penalty under section 502(c)(5).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(5) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1,000 a day to \$1,100 a day. This adjusted penalty applies only to violations occurring after March 24, 2003.

§ 2575.502c-6 Adjusted civil penalty under section 502(c)(6).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(6) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day but in no event in excess of \$1,000 per request to \$110 a day but in no event in excess of \$1,100 per request. This adjusted penalty applies only to violations occurring after March 24, 2003.

Signed in Washington, DC, this 15th day of January, 2003.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 18

RIN 1219-AA98 (Phase 10)

Alternate Locking Devices for Plug and Receptacle-Type Connectors on Mobile Battery-Powered Machines

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

ACTION: Direct final rule; request for comments.

SUMMARY: MSHA is revising and updating the existing regulation by allowing the optional use of alternative locking devices for plugs and receptacles to secure battery plugs to receptacles. The rule eliminates the

need to file petitions for modification to use this alternative means of securing battery plugs to receptacles.

MSHA is using direct final rulemaking for this action because the Agency expects that there will be no significant adverse comments on the rule. Elsewhere in this issue of the **Federal Register**, MSHA is publishing a companion proposed rule under MSHA's usual procedure for notice and comment rulemaking to provide a procedural framework to finalize the rule in the event the Agency receives significant adverse comments and withdraws this direct final rule. The companion proposed rule and this direct final rule are substantively identical.

DATES: This direct final rule is effective March 10, 2003, unless we receive significant adverse comments by February 21, 2003. If we receive such comments, we will publish a timely withdrawal of this direct final rule and proceed with notice and comment rulemaking.

ADDRESSES: Comments must be clearly identified as such and transmitted either electronically to comments@msha.gov, by facsimile to (202) 693-9441, or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939. You may contact MSHA with any format questions. Comments are posted for public viewing at <http://www.msha.gov/currentcomments.htm>.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director; Office of Standards, Regulations, and Variances, MSHA; phone: (202) 693-9442; facsimile: (202) 693-9441; E-mail: nichols-marvin@msha.gov. You can view comments filed on this rulemaking at <http://www.msha.gov/currentcomments.htm>.

SUPPLEMENTARY INFORMATION:

I. Direct Final Rules

Concurrent with this direct final rule, we also are publishing a separate, identical proposed rule in the Proposed Rule section of this **Federal Register**. This duplicate proposed rule will speed notice and comment rulemaking under § 553 of the Administrative Procedure Act should we have to withdraw this direct final rule. All interested parties should comment at this time because we will not initiate an additional comment period.

MSHA has determined that the subject of this rulemaking is suitable for a direct final rule. The Agency believes the actions taken are noncontroversial

and therefore does not anticipate receiving any significant adverse comments. If MSHA does not receive significant adverse comments on or before February 21, 2003, the Agency will publish a notice in the **Federal Register** no later than March 10, 2003, confirming the effective date of the direct final rule.

For purposes of this direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, MSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice and comment process. A comment recommending an addition to the rule will not be considered a significant adverse comment unless the comment states why this rule would be ineffective without the addition. If significant adverse comments are received, the Agency will publish a notice of significant adverse comments in the **Federal Register** withdrawing this direct final rule no later than March 10, 2003.

In the event the direct final rule is withdrawn because of significant adverse comments, the Agency can proceed with the rulemaking by addressing the comments received and publishing a final rule. The comment period for the proposed rule runs concurrently with that of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to the companion proposed rule. The Agency will consider such comments in developing a subsequent final rule.

II. Background Information

Currently, under § 18.41 of Title 30, Code of Federal Regulations, MSHA sets forth design and construction requirements for plug and receptacle-type connectors used with permissible electric equipment approved under part 18. These technical requirements were last revised in March of 1968, which represented the latest advances in battery connector technology considered appropriate for use on mining equipment at that time.

Over the past thirty years, there have been technological improvements to the methods used for securing battery plugs