

factual basis for this certification. If the direct final rule has a significant economic impact on a substantial number of small entities, then the Agency must develop a regulatory flexibility analysis.

Definition of a Small Mine

Under the RFA, in analyzing the impact of a rule on small entities, MSHA must use the SBA definition for a small entity or, after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not taken such an action, and hence is required to use the SBA definition.

The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees (13 CFR 121.201). All of the mines affected by this rulemaking fall into this category and hence can be viewed as sharing the special regulatory concerns which the RFA was designed to address.

Traditionally, the Agency has also looked at the impacts of its rules on a subset of mines with 500 or fewer employees—those with fewer than 20 employees, which the mining community refers to as “small mines.” These small mines differ from larger mines not only in the number of employees, but also, among other things, in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, their costs of complying with MSHA rules and the impact of MSHA rules on them would also tend to be different. It is for this reason that “small mines,” as traditionally defined by the mining community, are of special concern to MSHA.

This analysis complies with the legal requirements of the RFA for an analysis of the impacts on “small entities” while continuing MSHA’s traditional look at “small mines.” MSHA concludes that it can certify that the direct final rule will not have a significant economic impact on a substantial number of small entities that are covered by this rulemaking. The Agency has determined that this is the case both for mines affected by this rulemaking with fewer than 20 employees and for mines affected by this rulemaking with 500 or fewer employees.

Factual Basis for Certification

The Agency’s analysis of impacts on “small entities” begins with a “screening” analysis. The screening compares the estimated compliance costs of a rule for small entities in the

sector affected by the rule to the estimated revenues for those small entities. When estimated compliance costs are less than one percent of the estimated revenues, or they are negative (that is, they provide a cost savings), 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 one percent of revenues, it tends to indicate that further analysis may be warranted. Using either MSHA’s or SBA’s definition of a small mine, the direct final rule results only in cost savings to affected mines. Therefore, this direct final rule does not have a significant economic impact on a substantial number of small entities using either MSHA’s or SBA’s definition of a small mine.

V. Paperwork Reduction Act of 1995

The amendments to 30 CFR 18.41(f) do not introduce any new paperwork requirements that are subject to OMB approval under the Paperwork Reduction Act. In addition, the third-party disclosure requirements proposed for 30 CFR 18.41(f)(2) and (3) are not considered a “collection of information” because the standard provides the exact language for warning tags [see 5 CFR 1320.3(c)(2)].

As a result of this direct final rule, the number of petitions for modification filed annually related to battery plugs will be reduced. Therefore, this will result in reducing burden hours and costs in the ICR 1219–0065 paperwork package, which concerns the filing of petitions for modification.

This direct final rule will result in 178.2 burden hour savings annually and associated annual burden cost savings of \$9,709 related to the elimination of 22 petitions annually for alternate locking devices to secure battery plugs to receptacles. Of this total, for the 3 mines that employ fewer than 20 workers, there will be 24.3 burden hours savings annually and associated annual burden cost savings of \$1,324. For the 19 mines that employ 20 to 500 workers, there will be 153.9 burden hours savings annually and associated annual burden cost savings of \$8,385.

Mines Employing Fewer Than 20 Workers

The annual reduction of 24.3 burden hours and the \$1,324 cost savings for the 3 mines that employ fewer than 20 workers are derived in the following manner. On average, a mine supervisor takes 8 hours to prepare a petition (3 petitions \times 8 hours = 24 hours). In addition, on average, a clerical worker

takes 0.1 hours, 6 minutes, to copy and mail a petition (3 petitions \times 0.1 hours = 0.3 hours). The hourly wage rate for a mine supervisor is \$54.92 (\$54.92 \times 24 burden hours = \$1,318.10). The hourly wage rate for a clerical worker is \$19.58 (\$19.58 \times 0.3 burden hours = \$5.90).

Mines Employing 20 to 500 Workers

The annual reduction of 153.9 burden hours and the \$8,385 cost savings for the 19 mines that employ 20 to 500 workers are derived in the following manner. On average, a mine supervisor takes 8 hours to prepare a petition (19 petitions \times 8 hours = 152 hours). In addition, on average, a clerical worker takes 0.1 hours, 6 minutes, to copy and mail a petition (19 petitions \times 0.1 hours = 1.9 hours). The hourly wage rate for a mine supervisor is \$54.92 (\$54.92 \times 152 burden hours = \$8,347.84). The hourly wage rate for a clerical worker is \$19.58 (\$19.58 \times 1.9 burden hours = \$37.20).

The amendment to 30 CFR 18.41(f) eliminates a need for mine operators to file petitions for modification. Resulting from the decreased number of petitions, MSHA will not conduct investigations related to the determination the merits of the petition. The paperwork containing the information necessary to permit investigation of the petition for modification will not be needed. The petition for modification paperwork requirements are contained in 30 CFR 44.9, 44.10 and 44.11. They are approved under OMB control number 1219–0065. We are not amending §§ 44.9, 44.10, or 44.11. We are only amending a regulation that is frequently petitioned. Consequently, MSHA will not submit a paperwork package with this direct final rule. Although it is not necessary to update the Information Collection Requirement document at this time, we will submit the necessary paperwork to record the decrease in burden when appropriate. Our estimate of the number of petitions submitted each year will be reduced by the average number of petitions for modification currently submitted to modify the current regulation.

VI. Other Regulatory Considerations

A. Unfunded Mandates Reform Act of 1995 and Executive Order 12875 (Enhancing the Intergovernmental Partnership)

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