

500 workers, and 3 would employ fewer than 20 workers. For 3 mines that employ fewer than 20 workers these cost savings would be \$1,329. For the remaining 19 mines that employ 20 to 500 workers the cost savings would be \$8,418.

Mines Employing Fewer Than 20 Workers

The cost savings of \$1,329 for mines employing fewer than 20 workers are derived in the following manner. On average, a mine supervisor, earning \$54.92 per hour, takes 8 hours to prepare a petition (3 petitions x 8 hours x \$54.92 per hour = \$1,318). In addition, a clerical worker, earning \$19.58 per hour, takes 0.1 hours to copy and mail a petition (3 petitions x 0.1 hours x \$19.58 per hour = \$6). Furthermore, MSHA estimates that, on average, each petition is 5 pages long, photocopying costs are \$0.15 per page, and postage is \$1 [3 petitions x ((5 pages x \$0.15 per page) + \$1) = \$5].

Mines Employing 20 to 500 Workers

The cost savings of \$8,418 for mines that employ 20 to 500 workers are derived in the following manner. On average, a mine supervisor, earning \$54.92 per hour, takes 8 hours to prepare a petition (19 petitions x 8 hours x \$54.92 per hour = \$8,348). In addition, a clerical worker, earning \$19.58 per hour, takes 0.1 hours to copy and mail a petition (19 petitions x 0.1 hours x \$19.58 per hour = \$37). Furthermore, MSHA estimates that, on average, each petition is 5 pages long, photocopying costs are \$0.15 per page, and postage is \$1 [19 petitions x ((5 pages x \$0.15 per page) + \$1) = \$33].

There are no substantive changes proposed that apply to any mine that chooses not to use alternate locking devices on mobile battery-powered equipment. Thus, these mines would not incur costs nor generate cost savings as a result of the proposed rule.

V. Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA has analyzed the impact of the proposed rule on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by these rulemakings. Under SBREFA amendments to the RFA, MSHA must include in the rule a factual basis for this certification. If the

proposed rule would have a significant economic impact on a substantial number of small entities, then the Agency must develop an initial 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 proposed rule would 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 proposed rule would result only in cost savings to affected mines. Therefore, the proposed rule would 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. Accordingly, we are publishing the factual basis for our regulatory flexibility certification statement in the **Federal Register**, as a part of this preamble, and are providing a copy to the Small Business Administration, Office of Advocacy. We also will mail a copy of the direct final rule, including the preamble and certification statement, to mine operators and miners' representatives and post it on our Internet Home page at <http://www.msha.gov>.

VI. Paperwork Reduction Act of 1995

The proposed amendments to 30 CFR 18.41(f) would 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 the proposed rule, the number of petitions for modification filed annually related to battery plugs would be reduced. Therefore, the proposed rule would result in reducing burden hours and costs in the ICR 1219-0065 paperwork package, which concerns the filing of petitions for modification.

The proposed rule would 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 would 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 would be 153.9 burden hours