

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 that would occur 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 that would occur 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) would eliminate a need for mine operators to file petitions for modification. Resulting from the decreased number of petitions, MSHA would 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 would 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 proposing to amend §§ 44.9, 44.10, or 44.11. We are only proposing to amend a regulation that is frequently petitioned. Consequently, MSHA would 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 would be reduced by the average number of petitions for modification currently

submitted to modify the current regulation.

VII. 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, the proposed rule would not include any Federal mandate that might result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than \$100 million. MSHA is not aware of any State, local, or tribal government that either owns or operates underground coal mines.

B. Executive Order 12630 (Governmental Actions and Interference With Constitutionally Protected Property Rights)

The proposed rule would not be subject to Executive Order 12630 because it does not involve implementation of a policy with takings implications.

C. Executive Order 12988 (Civil Justice Reform)

MSHA has reviewed Executive Order 12988 and determined that the proposed rule would not unduly burden the Federal court system. The Agency wrote the proposed rule to provide a clear legal standard for affected conduct and has reviewed it carefully to eliminate drafting errors and ambiguities.

D. Executive Order 13045 (Health and Safety Effect on Children)

In accordance with Executive Order 13045, MSHA has evaluated the environmental health and safety effects of the proposed rule on children and has determined that it would have no adverse effects on children.

E. Executive Order 13132 (Federalism)

MSHA has reviewed the proposed rule in accordance with Executive Order 13132 regarding federalism and has determined that it would not have federalism implications.

F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

MSHA certifies that the proposed rule would not impose substantial direct compliance costs on Indian tribal governments.

G. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, MSHA has reviewed the proposed rule and has determined that it would have no adverse effect on the production or price of coal. Consequently, it would have no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

H. Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed in section V in this preamble, MSHA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

VIII. Petitions for Modification

On the effective date of the direct final rule, all existing petitions for modification for alternate locking devices for plug and receptacle-type connectors on mobile battery-powered machines would be superseded. Mine operators who have a previously granted petition modifying 30 CFR 75.503 and 18.41(f) would thereafter be considered in compliance with this rule, as long as the equipment is maintained in compliance with the specifications stated in the original petition for modification. All battery-powered equipment approved with locking devices prior to the effective date of this rule would be considered compliant, as long as the equipment is maintained in accordance with the originally approved specifications.

List of Subjects in 30 CFR Part 18

Mine safety and health, Reporting and recordkeeping requirements, Underground mining.

Dated: January 13, 2003.

Dave D. Lauriski,

Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, we are proposing to amend chapter I, subpart B, part 18 of title 30 of the Code of Federal Regulations as follows: