

foreign, wishing to acquire an MSHA product approval will be able to take advantage of this "equivalency" program.

Further, this final rule will be consistent with the North American Free Trade Agreement (NAFTA) and the Agreement on Technical Barriers to Trade (TBT).

Equivalency Under Part 7

Under the final rule, an equivalency provision is provided in part 7 which will operate like the provision for equivalency in § 6.20.

Under this provision, § 7.2 will be amended by adding a definition of "equivalent non-MSHA product safety standards." This term is used to describe a non-MSHA product safety standard, or group of standards, that is determined by MSHA to provide at least the same degree of protection as the applicable MSHA technical requirements in the subparts of part 7. This definition is essentially the same as that in § 6.2 of part 6. No comments on the specific language in § 7.2 were received. Therefore, the final language remains unchanged from the revised proposed rule.

Section 7.10 MSHA Acceptance of Equivalent Non-MSHA Product Safety Standards

Section 7.10(a) is similar to § 6.20(a) and provides that MSHA will accept non-MSHA product safety standards, or group of standards, as equivalent after determining that they: (1) Provide at least the same degree of protection as MSHA's technical requirements for the products in other subparts of this part; or (2) can be modified to provide at least the same degree of protection as those MSHA requirements. No comments on the specific language of § 7.10(a) were received. Therefore, the final language remains unchanged from the revised proposed rule.

Paragraph (b) of § 7.10 provides that MSHA publish its intent to review any non-MSHA product safety standard for equivalency in the **Federal Register** for the purpose of soliciting public input. No comments on the specific language in § 7.10(b) were received. Therefore, the final language remains unchanged from the revised proposed rule.

Paragraph (c) of § 7.10 provides that MSHA publish a listing of all equivalency determinations for this part 7. The listing will state whether MSHA accepts the non-MSHA product safety standards in their original form, or will require modifications to demonstrate equivalency. If modifications are required, they will also be included in this listing for part 7. MSHA will notify

the public of each equivalency determination and will publish a summary of the basis for its determination in the **Federal Register**. MSHA's Approval and Certification Center will provide complete equivalency determination reports upon request. No comments on the specific language in § 7.10(c) were received. Therefore, the final language remains unchanged from the revised proposed rule.

Paragraph (d) of § 7.10 provides that after MSHA has determined that non-MSHA product safety standards are equivalent and has notified the public of such determinations, applicants can seek MSHA product approval based on such non-MSHA product safety standards. No comments on the specific language in § 7.10(d) were received. Therefore, the final language remains unchanged from the revised proposed rule.

MSHA is aware of some foreign and domestic non-MSHA product safety standards that could be used to test and evaluate products approved under the various subparts of part 7. These standards are used in other countries and other industries. Some of these non-MSHA product safety standards can provide at least the same degree of protection as MSHA requirements and can provide consistent, repeatable test results.

MSHA intends to operate its equivalency program under part 7, the same as previously described in the discussion of § 6.20 on equivalency.

III. Paperwork Reduction Act

This final rule will result in a total of approximately 29 burden hours and \$654 dollars of related costs. A breakdown of the burden hours and related costs by provision and by applicant size can be found in Chapter VII of the Regulatory Economic Analysis (REA) supporting this final rule. The REA is located on our Web site at <http://www.msha.gov/regsinfo.htm>.

This rule contains no substantive changes to the paperwork requirements contained in parts 18, 19, 20, 22, 23, 27, 33, 35, and 36 which are currently approved under OMB Control Number 1219-0066. The paperwork requirements contained in § 6.10 have been submitted to the Office of Management and Budget (OMB) for review under 44 U.S.C. 3504(h) of the Paperwork Reduction Act of 1995, as amended. Persons are not obligated to comply with them until approved by OMB.

Under § 6.10 applicants will have to provide information stated in paragraphs (a)(1) through (a)(4) for

MSHA to accept testing and evaluation performed by an independent laboratory. Currently, applicants must submit only information requested in paragraph (a)(4). If applicants choose to use independent laboratories, information requested in paragraphs (a)(1) through (a)(3) will be needed because MSHA will no longer be performing all the testing and evaluation associated with the approval application. Providing the information under § 6.10(a)(1) through (a)(3) will result in a total of approximately 24 burden hours and \$458 of associated costs.

Section 6.10(d) states that after review of the information required under paragraph (a)(1) through (a)(4), MSHA will notify the applicant if additional information and testing are required. If an independent laboratory conducts any additional or repeat testing, then the applicant will have to send the test results to MSHA. Sending any additional or repeat testing results to MSHA under § 6.10(d) will result in a total of 2 burden hours and \$39 of associated costs.

Section 6.10(f) states that, once the product is approved, the approval holder will have to notify MSHA of all product defects of which the approval holder is aware. Notification is assumed to be in the form of a letter to MSHA. Notifying MSHA of product defects under § 6.10(f) will result in a total of 3 burden hours and \$157 of associated costs.

IV. Executive Order 12866

A. Compliance Costs

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of regulations. MSHA has determined that this final rule does not meet the criteria of an economically significant regulatory action pursuant to Executive Order 12866 section 3(f)(1) in that it will not have an effect on the economy of \$100 million or otherwise have any material adverse effect. Although this final rule is not an economically significant action, MSHA has completed a REA in which the economic impact of the final rule is estimated. For a complete breakdown of the compliance costs for this final rule see chapter IV of the REA. The REA is summarized as follows.

The final rule will result in an annual net cost savings of about \$1.5 million. Applicants seeking MSHA product approval employing 500 or fewer workers will realize a net cost savings of \$0.66 million. Applicants employing more than 500 workers will realize a net cost savings of \$0.86 million.