

There are no substantive changes to this final rule that apply to any mine that chooses not to use alternate locking devices on mobile battery-powered equipment. Thus, these mines will not incur costs or generate cost savings as a result of the final 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 final rule on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the final rule will 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 final rule will 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 will 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 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 covered by this rulemaking with fewer than 20 employees and for mines covered 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 final rule will result only in cost savings to affected mines. Therefore, the final rule will 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.

VI. Paperwork Reduction Act of 1995

The final amendments to 30 CFR 18.41(f) will not introduce any new paperwork requirements that are subject to OMB approval under the Paperwork Reduction Act. In addition, the third-party disclosure requirements for 30 CFR 18.41(f)(2) and (3) are not considered a “collection of information” because the standard provides language for warning tags (*see* 5 CFR 1320.3(c)(2)). Although MSHA is providing language to be used on the warning tag, MSHA is also providing operators some flexibility by allowing alternative language that meets the intent of the provided language.

As a result of the final rule, the number of petitions for modification filed annually related to battery plugs will be reduced. Therefore, the final rule will result in reducing burden hours

and costs in the ICR 1219–0065 paperwork package, which concerns the filing of petitions for modification.

The 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 hour 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 hour 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 will 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 will 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).

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 final rule will not include any Federal mandate that might result in increased expenditures by State, local, or tribal governments, or increased expenditures by the private