

COSTS COMPARED TO REVENUES BY MINE SIZE

Mine size (employment)	Number of mines	Estimated cost of rule	Estimated revenue (millions)	Estimated cost/mine	Cost as percent of revenue
Coal Mines					
Small <20	1,078	\$720,498	\$586	\$668	0.123%
Small <=500	1,901	1,270,563	15,093	668	0.008%
Metal and Nonmetal (M/NM) Mines					
Small <20	9,928	1,002,761	8,377	101	0.012%
Small <=500	11,620	1,173,659	36,802	101	0.003%

The full economic analysis, including the factual basis for our regulatory flexibility certification statement, is provided in the Regulatory Economic Analysis (REA) supporting this direct final rule. The REA is available from MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939. You can also view and obtain a copy from our Internet Home Page at www.msha.gov.

V. Other Regulatory Considerations

A. Paperwork Reduction Act of 1995

This direct final rule contains no information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

B. Unfunded Mandates Reform Act of 1995

This direct final rule affects about 220 small mines operated by governmental jurisdictions to provide aggregates for the construction and repair of highways and roads. We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this direct final rule does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments in the aggregate of more than \$100 million, or increased expenditures by the private sector of more than \$100 million. We also determined, for purposes of § 203, that this direct final rule does not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference with Constitutionally Protected Property Rights

This direct final rule is not subject to Executive Order 12630 because it does not involve implementation of a policy with takings implications.

D. Executive Order 12988: Civil Justice Reform

We have reviewed Executive Order 12988 and determined that this direct final rule will not unduly burden the Federal court system. We wrote the direct final rule to provide a clear legal standard for affected conduct and have reviewed it carefully to eliminate drafting errors and ambiguities.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this rule on children and have determined that it will have no effects on children.

F. Executive Order 13132: Federalism

We have reviewed this rule in accordance with Executive Order 13132 regarding federalism, and have determined that it will not have federalism implications.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

We certify that the direct final rule does not impose substantial direct compliance costs on Indian tribal governments.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed the direct final rule for its energy impacts. The direct final rule has no effect on the distribution or use of energy. The only impact of the rule on the supply of energy is through its effect on the price of coal or the production of coal. Impacts of the rule on metal and nonmetal mines do not affect the supply of energy.

The final rule has no direct effects on the production of coal. The rule does

not prevent the mining of particular coal deposits, nor does the rule require coal deposits to be mined at a slower pace. The only impact of the rule on coal mine production is indirect, via the cost or price of coal. The estimated annual cost of the final rule for the coal mining industry is about \$1.3 million. The annual revenues of the coal mining industry in 2000 were about \$17,700 million. The cost of the rule for the coal mining industry is, therefore, equal to about 0.007% of revenues. Even if we were to suppose that the increased cost caused by the rule would be fully reflected in coal prices, the impact would be negligible.

Accordingly, we have determined that the direct final rule has no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

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

List of Subjects in 30 CFR Part 100

Mine safety and health, Penalties.

Dated: February 4, 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, chapter I, subchapter P, part 100 of title 30 of the Code of Federal Regulations is amended as follows: