

small entities (as defined in accordance with SBA criteria) and on very small establishments (those with fewer than 20 employees). For small entities as defined by SBA criteria, the costs represent 0.008 percent of revenues and 0.21 percent of profits (for those entities which are not nonprofits). For small entities with fewer than 20 employees, the cost also represents 0.008 percent of revenues and 0.21 percent of profits (for those entities which are not nonprofits). OSHA's Procedures define a significant impact as one in which the costs exceed 1 percent of revenues or 5 percent of profits. OSHA therefore certifies that this final regulation will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Analysis

OSHA reviewed this action according to the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875. As discussed above in the Final Economic Analysis and Regulatory Flexibility Certification of this preamble, the Agency has determined that this action imposes less than \$100 million in costs in any given year on either private or public sector entities. As a result, this is not a major rule under UMRA. OSHA standards do not apply to state and local governments, except in states that have voluntarily elected to adopt a State Plan

approved by the Agency. Consequently, this action does not meet the definition of a "Federal intergovernmental mandate" (see section 421(5) of the UMRA (2 U.S.C. 658(5))). In conclusion, this action does not mandate that state, local, and tribal governments adopt new, unfunded regulatory obligations.

Paperwork Review

The paperwork burdens for this action were included in the final standard on Respiratory Protection, published January 8, 1998 (63 FR 1152). The OMB control number is 1218-0019.

Environmental Impacts

The provisions of this action have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 [42 U.S.C. 432, *et seq.*], the Council on Environmental Quality (CEQ) NEPA regulations [40 CFR part 1500], and OSHA's DOL NEPA Procedures [29 CFR part 11]. As a result of this review, OSHA has determined that this action will have no significant adverse effect on air, water, or soil quality, plant or animal life, use of land, or other aspects of the environment.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for

Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational and Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary's Order 3-2000, and 29 CFR part 1911.

Signed at Washington, DC, this 19th day of December, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

■ For the reasons set forth in the preamble, 29 CFR part 1910, Subpart I is amended as follows:

PART 1910—[AMENDED]

■ 1. The authority citation for Subpart I of part 1910 is revised to read as follows:

Authority: Sections 4, 6 and 8, Occupational Safety Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), or 5-2002 (67 FR 65008), as applicable. Sections 1910.132, 1910.134, and 1910.138 also issued under 29 CFR part 1911. Sections 1910.133, 1910.135, and 1910.136 also issued under 20 CFR part 1911 and 5 U.S.C. 553.

§ 1910.139 [Removed]

■ 2. Section 1910.139 is removed.

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