

410, 104 Stat. 890) to require generally that the head of each Federal agency adjust the civil monetary penalties subject to its jurisdiction for inflation within 180 days after enactment of the Act and at least once every four years thereafter.

**§ 2575.502c-5 Adjusted civil penalty under section 502(c)(5).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(5) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1,000 a day to \$1,100 a day. This adjusted penalty applies only to violations occurring after March 24, 2003.

**§ 2575.502c-6 Adjusted civil penalty under section 502(c)(6).**

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(6) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day but in no event in excess of \$1,000 per request to \$110 a day but in no event in excess of \$1,100 per request. This adjusted penalty applies only to violations occurring after March 24, 2003.

Signed in Washington, DC, this 15th day of January, 2003.

**Ann L. Combs,**

*Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.*

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 18

RIN 1219-AA98 (Phase 10)

#### Alternate Locking Devices for Plug and Receptacle-Type Connectors on Mobile Battery-Powered Machines

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** MSHA is revising and updating the existing regulation by allowing the optional use of alternative locking devices for plugs and receptacles to secure battery plugs to receptacles. The rule eliminates the

need to file petitions for modification to use this alternative means of securing battery plugs to receptacles.

MSHA is using direct final rulemaking for this action because the Agency expects that there will be no significant adverse comments on the rule. Elsewhere in this issue of the **Federal Register**, MSHA is publishing a companion proposed rule under MSHA's usual procedure for notice and comment rulemaking to provide a procedural framework to finalize the rule in the event the Agency receives significant adverse comments and withdraws this direct final rule. The companion proposed rule and this direct final rule are substantively identical.

**DATES:** This direct final rule is effective March 10, 2003, unless we receive significant adverse comments by February 21, 2003. If we receive such comments, we will publish a timely withdrawal of this direct final rule and proceed with notice and comment rulemaking.

**ADDRESSES:** Comments must be clearly identified as such and transmitted either electronically to [comments@msha.gov](mailto:comments@msha.gov), by facsimile to (202) 693-9441, or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939. You may contact MSHA with any format questions. Comments are posted for public viewing at <http://www.msha.gov/currentcomments.htm>.

**FOR FURTHER INFORMATION CONTACT:** Marvin W. Nichols, Jr., Director; Office of Standards, Regulations, and Variances, MSHA; phone: (202) 693-9442; facsimile: (202) 693-9441; E-mail: [nichols-marvin@msha.gov](mailto:nichols-marvin@msha.gov). You can view comments filed on this rulemaking at <http://www.msha.gov/currentcomments.htm>.

#### SUPPLEMENTARY INFORMATION:

##### I. Direct Final Rules

Concurrent with this direct final rule, we also are publishing a separate, identical proposed rule in the Proposed Rule section of this **Federal Register**. This duplicate proposed rule will speed notice and comment rulemaking under § 553 of the Administrative Procedure Act should we have to withdraw this direct final rule. All interested parties should comment at this time because we will not initiate an additional comment period.

MSHA has determined that the subject of this rulemaking is suitable for a direct final rule. The Agency believes the actions taken are noncontroversial

and therefore does not anticipate receiving any significant adverse comments. If MSHA does not receive significant adverse comments on or before February 21, 2003, the Agency will publish a notice in the **Federal Register** no later than March 10, 2003, confirming the effective date of the direct final rule.

For purposes of this direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, MSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice and comment process. A comment recommending an addition to the rule will not be considered a significant adverse comment unless the comment states why this rule would be ineffective without the addition. If significant adverse comments are received, the Agency will publish a notice of significant adverse comments in the **Federal Register** withdrawing this direct final rule no later than March 10, 2003.

In the event the direct final rule is withdrawn because of significant adverse comments, the Agency can proceed with the rulemaking by addressing the comments received and publishing a final rule. The comment period for the proposed rule runs concurrently with that of the direct final rule. Any comments received under the companion proposed rule will be treated as comments regarding the direct final rule. Likewise, significant adverse comments submitted to the direct final rule will be considered as comments to the companion proposed rule. The Agency will consider such comments in developing a subsequent final rule.

##### II. Background Information

Currently, under § 18.41 of Title 30, Code of Federal Regulations, MSHA sets forth design and construction requirements for plug and receptacle-type connectors used with permissible electric equipment approved under part 18. These technical requirements were last revised in March of 1968, which represented the latest advances in battery connector technology considered appropriate for use on mining equipment at that time.

Over the past thirty years, there have been technological improvements to the methods used for securing battery plugs

to receptacles. Since the provisions of existing section 18.41(f) do not reflect the latest state-of-the-art technology, mine operators file petitions for modification under Section 101(c) of the Mine Act to take advantage of the technological advancements. Since 1980, there have been approximately 300 petitions filed and granted under Section 101(c) requesting modification to 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 18.41(f) (Plug and receptacle-type connectors) to allow the use of alternate locking devices. The means of securing battery connectors permitted under this direct final rule allows for the use of padlocks and other equally effective mechanical devices that preclude the inadvertent separation of the battery plug from the receptacle.

In some operations, mine operators encountered difficulties with padlocks in both normal and emergency situations. The use of padlocks requires the maintenance of keys by authorized personnel. Due to the nature of mining operations, padlocks may be filled with mining debris, rendering them difficult or impossible to open with a key. Padlock keys can be misplaced, broken, or bent and may become unusable. This can go unnoticed by the operator until an emergency occurs, when the key may be unavailable or unusable. The removal of a padlock to permit the disconnection of a battery plug in an emergency situation, such as a battery fire, requires a longer period of time and greater effort than the removal of any of the other locking devices permitted in this direct final rule. However, where keys are accessible and padlocks are relatively free from accumulation of dust, padlocks have proven to be effective.

In 1987, to address the problems encountered with the use of padlocks, MSHA issued a policy allowing use of an alternative to padlocks. This policy permits the use of a device that is captive and requires a special tool to disengage and allow separation of the connector. A device is captive when a mechanical connection is made permanent by a locking device that is confined in its mounting location in a manner where, once installed, it cannot be inadvertently removed. The mechanical connection can only be made non-permanent by direct and intervening action using a special tool. A special tool is one that is not normally carried by miners and is used to ensure that constant pressure is maintained to prevent inadvertent separation of the plug from the receptacle.

Since 1980, mine operators have also been granted permission, through the petition for modification process, to use

a spring-loaded locking device. MSHA determined that spring-loaded locking devices provide at least the same measure of protection as padlocks and captive locking devices. These devices maintain constant pressure on the threaded ring or equivalent mechanical fastening to prevent the plug from accidentally disengaging from the receptacle.

For both alternate locking devices, the captive locking device and the spring loaded locking device, a warning tag is also required to alert the user that the connector must not be disengaged under load. Withdrawal of a battery plug from the receptacle while the machine is energized (*i.e.*, under load) can create incandive arcing and sparking that could result in a personal injury, explosion, or fire. The requirement for the warning tag, along with part 48 new task training requirements, provide for appropriate hazard recognition when using alternative locking devices. MSHA is unaware of any adverse incidents involving alternate locking devices.

By issuing this direct final rule, MSHA is responding to the requirements of the Regulatory Flexibility Act and Executive Order 12866 that agencies review their regulations to determine their effectiveness and to implement any changes indicated by the review that will make the regulation more flexible and efficient for stakeholders and small businesses while maintaining needed protections for workers. This rule maintains the protection afforded by the existing standard.

### III. Discussion of Alternative Locking Devices on Mobile Battery-Powered Machines

#### A. Paragraph 18.41

Section 18.41 addresses connectors used on battery and non battery-powered machines. Section 18.41(f) specifies requirements for plug and receptacle-type connectors used on mobile battery-powered machines employed in underground gassy mines. This direct final rule modifies paragraph (f) of 30 CFR 18.41 by adding two new provisions allowing the use of devices that provide at least the same measure of protection as that afforded by the existing standards. The Agency recognizes that battery-powered machine designs differ from conventional machine designs employing trailing cables. The energy to battery-powered equipment is carried on-board the machine with rechargeable battery assemblies, rather than being transmitted via a trailing cable from a

section power center. Because of the inherent design limitations of battery-powered machines, there is no practical way to automatically remove all electrical power from battery-powered machines. Machines powered by trailing cables have circuit-interrupting devices that can be used to de-energize them, whereas most battery-powered machines rely on a plug and receptacle for de-energization. The proper procedure for removing power from a battery-powered machine is to first open the main machine disconnect device and then to disengage the plug from the receptacle. This effectively isolates the battery power from the machine.

#### B. Subparagraph 18.41(f)(1)

Subparagraph 30 CFR 18.41(f)(1) retains the existing provision that a plug padlocked to the receptacle will be acceptable in lieu of an interlock provided the plug is held in place by a threaded ring or equivalent mechanical fastening in addition to the padlock. This paragraph also retains the provision that a connector within a padlocked enclosure will be acceptable.

A padlock used on a battery plug and receptacle-type connector serves a dual purpose. It secures the threaded ring or equivalent mechanical fastening in place. A padlock is also used as a means to prevent the removal of the plug from the receptacle by unauthorized personnel. In this respect, only those persons having keys are considered authorized to remove the plug from the receptacle.

#### C. Subparagraph 18.41(f)(2)

Subparagraph 30 CFR 18.41(f)(2) is a new provision which provides for an alternate method for securing the battery plug to the receptacle. The rule provides that a plug which is held in place by a threaded ring or equivalent mechanical fastening will be acceptable provided that the threaded ring is secured in place with a device that is captive. It also requires a special tool to disengage the device and allow for the separation of the connector. It further requires a warning tag that states: "DO NOT DISENGAGE UNDER LOAD."

#### D. Subparagraph 18.41(f)(3)

Subparagraph 30 CFR 18.41(f)(3) is a new provision which provides for another alternate method for securing the battery plug to the receptacle. The rule states that a plug held in place by a spring-loaded or other locking device that maintains constant pressure against a threaded ring or equivalent mechanical fastening will be acceptable provided that it secures the plug from accidental separation. It further requires

a warning tag that states: "DO NOT DISENGAGE UNDER LOAD."

This subparagraph allows for the use of other locking devices that may become available in the future. The Agency has included this language to allow for acceptance of equally effective devices. Devices not explicitly defined in this rulemaking must be equally effective and provide at least the same measure of protection as those incorporated under this section.

Neither of the alternatives in subparagraphs 18.41(f)(2) or (f)(3) imposes additional requirements to the 1987 MSHA policy or the granted petitions for modification.

#### **IV. Executive Order 12866 (Regulatory Planning and Review and Regulatory Flexibility Act)**

##### *Introduction*

MSHA is issuing a direct final rule amending 30 CFR 18.41(f), concerning plug and receptacle-type connectors for mobile battery-powered equipment. This direct final rule revises and updates the existing regulation by allowing the use of alternate locking devices to secure battery plugs to receptacles. Two alternate locking devices are addressed in this direct final rule.

(1) Captive locking devices requiring use of a special tool. These devices have been accepted since 1987 under an MSHA policy allowing their usage.

(2) Spring loaded or other locking devices. Spring-loaded locking devices have been accepted by MSHA under the 101(c) Petition for Modification process.

The direct final rule eliminates the need to file petitions for modification (PFM) to use spring-loaded locking devices to secure battery plugs to receptacles. It also codifies the 1987 MSHA policy of allowing acceptance of captive locking devices.

Executive Order (E.O.) 12866 requires that regulatory agencies assess both the costs and benefits of intended regulations. MSHA has fulfilled this requirement for the direct final rule, and based upon its economic analysis, has determined that the direct final rule will not have an annual effect of \$100 million or more on the economy. Therefore, it is not an economically significant regulatory action pursuant to § 3(f)(1) of E.O. 12866.

The direct final rule will eliminate the need for mine operators of underground gassy mines, who choose to use plug and receptacle-type connectors for mobile battery-powered equipment, to file PFMs, and thereby generate cost savings.

From 1999 to 2001, 66 petitions were filed and granted to modify the

application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors). Through November 20, 2002, 23 petitions have been filed, for a total of 89 petitions filed from 1999 to 2002. On average, 22 petitions were filed during each of the past 4 years.

##### *Mining Sectors Affected*

This direct final rule applies to all underground gassy mines. All underground coal mines are considered gassy mines and are affected by this rule. Gassy metal and nonmetal (M/NM) mines can also be affected by this direct final rule. Currently there are no battery-powered machines of the type covered by this rule in any of the gassy M/NM mines. Since these devices have not been used in M/NM mines, for purposes of this economic analysis, MSHA assumes that M/NM mines will not be affected by this rule. MSHA estimates that, on average, 22 underground coal mines per year will be affected by this rule.

##### *Benefits*

MSHA has qualitatively determined that the direct final rule, which permits use of alternate locking devices on mobile battery-powered equipment instead of using padlocks, will yield safety benefits relative to the existing rule, which does not permit use of alternate locking devices on mobile battery-powered equipment. The use of alternate locking devices in lieu of padlocks on mobile battery-powered equipment eliminates the problems associated with difficult removal of padlocks.

##### *Compliance Costs*

Cost savings from the direct final rule will accrue to underground coal mines that choose to use spring-loaded locking devices on mobile battery-powered equipment since they will no longer have to file a PFM. Cost savings from this rule are estimated at \$9,747 per year. The cost savings are based upon the elimination of the filing of an average of 22 petitions per year. It is projected that of the 22 mines, 19 would employ 20 to 500 workers, and 3 would employ fewer than 20 workers. For 3 mines that employ fewer than 20 workers these cost savings will be \$1,329. For the remaining 19 mines that employ 20 to 500 workers the cost savings will be \$8,418.

##### *Mines Employing Fewer Than 20 Workers*

The cost savings of \$1,329 for mines employing fewer than 20 workers are

derived in the following manner. On average, a mine supervisor, earning \$54.92 per hour, takes 8 hours to prepare a petition (3 petitions × 8 hours × \$54.92 per hour = \$1,318). In addition, a clerical worker, earning \$19.58 per hour, takes 0.1 hours to copy and mail a petition (3 petitions × 0.1 hours × \$19.58 per hour = \$6). Furthermore, MSHA estimates that, on average, each petition is 5 pages long, photocopying costs are \$0.15 per page, and postage is \$1 [3 petitions × ((5 pages × \$0.15 per page) + \$1) = \$5].

##### *Mines Employing 20 to 500 Workers*

The cost savings of \$8,418 for mines that employ 20 to 500 workers are derived in the following manner. On average, a mine supervisor, earning \$54.92 per hour, takes 8 hours to prepare a petition (19 petitions × 8 hours × \$54.92 per hour = \$8,348). In addition, a clerical worker, earning \$19.58 per hour, takes 0.1 hours to copy and mail a petition (19 petitions × 0.1 hours × \$19.58 per hour = \$37). Furthermore, MSHA estimates that, on average, each petition is 5 pages long, photocopying costs are \$0.15 per page, and postage is \$1 [19 petitions × ((5 pages × \$0.15 per page) + \$1) = \$33].

There are no substantive changes in the direct final rule that apply to any mine that chooses not to use alternate locking devices on mobile battery-powered equipment. Thus, these mines would not incur costs nor generate cost savings as a result of the direct final rule. Accordingly, we are publishing the factual basis for our regulatory flexibility certification statement in the **Federal Register**, as a part of this preamble, and are providing a copy to the Small Business Administration, Office of Advocacy. We also will mail a copy of the direct final rule, including the preamble and certification statement, to mine operators and miners' representatives and post it on our Internet Home page at <http://www.msha.gov>.

#### **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 direct final rule on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the direct final rule will not have a significant economic impact on a substantial number of small entities that are covered by these rulemakings. Under the SBREFA amendments to the RFA, MSHA must include in the rule a

factual basis for this certification. If the direct final rule has a significant economic impact on a substantial number of small entities, then the Agency must develop a 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 would 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 direct 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 affected by this rulemaking with fewer than 20 employees and for mines affected 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 direct final rule results only in cost savings to affected mines. Therefore, this direct final rule does 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.

#### **V. Paperwork Reduction Act of 1995**

The amendments to 30 CFR 18.41(f) do not introduce any new paperwork requirements that are subject to OMB approval under the Paperwork Reduction Act. In addition, the third-party disclosure requirements proposed for 30 CFR 18.41(f)(2) and (3) are not considered a “collection of information” because the standard provides the exact language for warning tags [see 5 CFR 1320.3(c)(2)].

As a result of this direct final rule, the number of petitions for modification filed annually related to battery plugs will be reduced. Therefore, this will result in reducing burden hours and costs in the ICR 1219–0065 paperwork package, which concerns the filing of petitions for modification.

This direct 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 hours 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 hours 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 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 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) eliminates a need for mine operators to file petitions for modification. Resulting from the decreased number of petitions, MSHA will 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 will 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 amending §§ 44.9, 44.10, or 44.11. We are only amending a regulation that is frequently petitioned. Consequently, MSHA will 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 will be reduced by the average number of petitions for modification currently submitted to modify the current regulation.

#### **VI. 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, this direct final rule does not include any Federal mandate that may 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)*

This direct final rule is not 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 this direct final rule will not unduly burden the Federal court system. The Agency wrote the direct final 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 this direct final rule on children and has determined that it will have no adverse effects on children.

*E. Executive Order 13132 (Federalism)*

MSHA has reviewed this direct final rule in accordance with Executive Order 13132 regarding federalism and has determined that it does not have federalism implications.

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

MSHA certifies that the direct final rule does 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 this direct final rule and has determined that it has no adverse effect on the production or price of coal. Consequently, it has 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 direct final 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 this direct final rule will not have a significant economic impact on a substantial number of small entities.

**VII. Petitions for Modification**

On the effective date of this direct final rule, all existing petitions for modification for alternate locking devices for plug and receptacle-type connectors on mobile battery-powered machines will be superseded. Mine operators who have a previously granted petition modifying 30 CFR 75.503 and 18.41(f) will 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 will 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 amending chapter I, subpart B, part 18 of title 30 of the Code of Federal Regulations as follows:

**PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES**

1. The authority citation for part 18 continues to read as follows:

**Authority:** 30 U.S.C. 957, 961.

**Subpart B—[Amended]**

2. Paragraph (f) of § 18.41 is revised to read as follows:

**§ 18.41 Plug and receptacle-type connectors.**

\* \* \* \* \*

(f) For a mobile battery-powered machine, a plug and receptacle-type connector will be acceptable in lieu of an interlock provided:

(1) The plug is padlocked to the receptacle and is held in place by a threaded ring or equivalent mechanical

fastening in addition to a padlock. A connector within a padlocked enclosure will be acceptable; or,

(2) The plug is held in place by a threaded ring or equivalent mechanical fastening, in addition to the use of a device that is captive and requires a special tool to disengage and allow for the separation of the connector. All connectors using this means of compliance shall have a clearly visible warning tag that states: "DO NOT DISENGAGE UNDER LOAD"; or,

(3) The plug is held in place by a spring-loaded or other locking device, that maintains constant pressure against a threaded ring or equivalent mechanical fastening, to secure the plug from accidental separation. All connectors using this means of compliance shall have a clearly visible warning tag that states: "DO NOT DISENGAGE UNDER LOAD."

[FR Doc. 03-1305 Filed 1-21-03; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 117**

[CGD08-03-001]

RIN 2115-AE47

**Drawbridge Operating Regulations; Bayou Lafourche, Cutoff, LA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 1 (Galliano Lift) bridge across Bayou Lafourche, mile 30.6, near Cutoff, Lafourche Parish, Louisiana. This deviation allows the bridge to remain closed to navigation for two four-hour periods daily from February 3, through February 12, 2003. The deviation is necessary to allow for the replacement of the grid decking on the bridge.

**DATES:** This deviation is effective from 7 a.m. on Monday, February 3, 2003 until 4 p.m. on Wednesday, February 12, 2003.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 3 p.m., Monday through