Example 3. Deep in the money options. (i) LP is a limited partnership engaged in an internet start-up venture. In exchange for a premium of $14x, LP issues a noncompensatory option to C to acquire a 5 percent interest in LP for $6x at any time during a 10-year period commencing on the date on which the option is issued. At the time of the issuance of the option, a 5 percent interest in LP has a fair market value of $15x. Because of the riskiness of LP's business, the option is not reasonably certain to be exercised. Nevertheless, because C has paid a $14x premium for a partnership interest that has a fair market value of $15x, C has substantially the same economic benefits and detriments as a result of purchasing the option as C would have had if C had purchased a partnership interest. Therefore, the option provides C with rights that are substantially similar to the rights afforded to a partner (partner attributes). See paragraph (c)(3) of this section. If there is a strong likelihood that failure to treat C as a partner would result in a substantial reduction in the partners' and C's aggregate tax liabilities, C will be treated as a partner. In such a case, C's distributive share of LP's income, gain, loss, deduction, or credit (or items thereof) is determined in accordance with C's interest in the partnership (taking into account all facts and circumstances) in accordance with § 1.704–1(b)(3).

(ii) The facts are the same as in paragraph (i) of this Example 3, except that C transfers $150x to LP in exchange for a note from LP that matures 10 years from the date of issuance and a warrant to acquire a 5 percent interest in LP for an exercise price of $6x. The warrant issued with the debt is exercisable at any time during the 10-year term of the debt. The debt instrument and the warrant comprise an investment unit with the meaning of section 1273(c)(2). Under § 1.1273–2(h), the issue price of the investment unit, $150x, is allocated $136x to the debt instrument and $14x to the warrant. As in paragraph (i), C has substantially the same economic benefits and detriments as a result of purchasing the warrant as C would have had if C had purchased a partnership interest. Therefore, the warrant provides C with rights that are substantially similar to the rights afforded to a partner. If there is a strong likelihood that failure to treat C as a partner would result in a substantial reduction in the partners' and C's aggregate tax liabilities, then C will be treated as a partner. In such a case, C's distributive share of LP's income, gain, loss, deduction, or credit (or items thereof) is determined in accordance with C's interest in the partnership (taking into account all facts and circumstances) in accordance with § 1.704–1(b)(3).

(e) *Effective Date.* This section applies to noncompensatory options that are issued on or after the date final regulations are published in the **Federal Register**.

6. Section 1.1272–1 is amended by adding a sentence at the end of paragraph (e) to read as follows:

§ 1.1272–1 Current inclusion of OID in income.

* * * * *

(e) * * * For debt instruments issued on or after the date final regulations are published in the **Federal Register**, the term *stock* in the preceding sentence means an equity interest in any entity that is classified, for Federal tax purposes, as either a partnership or a corporation.

* * * * *

7. Section 1.1273–2 is amended by adding a sentence at the end of paragraph (j) to read as follows:

§ 1.1273–2 Determination of issue price and issue date.

* * * * *

(j) * * * For debt instruments issued on or after the date final regulations are published in the **Federal Register**, the term *stock* in the preceding sentence means an equity interest in any entity that is classified, for Federal tax purposes, as either a partnership or a corporation.

* * * * *

8. Section 1.1275–4 is amended by adding a sentence at the end of paragraph (a)(4) to read as follows:

§ 1.1275–4 Contingent payment debt instruments.

(a) * * *

(4) * * * For debt instruments issued on or after the date final regulations are published in the **Federal Register**, the term stock in the preceding sentence means an equity interest in any entity that is classified, for Federal tax purposes, as either a partnership or a corporation.

* * * * *

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

[FR Doc. 03–872 Filed 1–21–03; 8:45 am]

BILLING CODE 4830–01–U

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: Proposed rule; request for comments.

SUMMARY: MSHA is proposing to amend the existing regulation by allowing the optional use of alternative locking devices for plugs and receptacles to secure battery plugs to receptacles. The proposed rule would eliminate 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. If no significant adverse comments are received, MSHA will confirm the effective date of the direct final rule. If significant adverse comments are received, MSHA will withdraw the direct final rule and proceed with rulemaking on this proposed rule. A subsequent **Federal Register** document will be published to announce MSHA's action.

DATES: Comments must be received on or before February 21, 2003. Submit written comments on the information collection requirements by February 21, 2003. The direct final rule will become 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 the 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,* 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.* You can view comments filed on this rulemaking at *http://www.msha.gov/currentcomments.htm.*

SUPPLEMENTARY INFORMATION:

I. Direct Final Rules

Concurrent with this proposed rule, we also are publishing a separate, substantively identical direct final rule in the Final Rule section of this **Federal Register**. The simultaneous publication of these documents will speed notice and comment rulemaking under § 553 of the Administrative Procedure Act should we have to withdraw the 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 the 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 the 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 the 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 direct final rule will be treated as comments regarding the proposed rule. Likewise, significant adverse comments submitted to the proposed rule will be considered as comments to the companion 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 proposed rule would allow 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 proposed 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 incendive 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 proposed 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. The amended rule would maintain 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 rulemaking proposes to modify 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) would retain the existing provision that a plug padlocked to the receptacle would 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 would retain the provision that a connector within a padlocked enclosure would 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) would be a new provision which provides for an alternate method for securing the battery plug to the receptacle. The rule would provide 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 would also require a special tool to disengage the device and allow for the separation of the connector. It would further require a warning tag that states: ''DO NOT DISENGAGE UNDER LOAD.''

D. Subparagraph 18.41(f)(3)

Subparagraph 30 CFR 18.41(f)(3) would be 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 would be acceptable provided that it would secure the plug from accidental separation. It would further require a warning tag that states: ''DO NOT DISENGAGE UNDER LOAD.''

This subparagraph would allow 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) would impose 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 proposing to amend 30 CFR 18.41(f), concerning plug and receptacle-type connectors for mobile battery-powered equipment. The proposed rule would revise and update 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 proposed 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 proposed rule, once promulgated, would eliminate the need to file petitions for modification (PFM) to use spring-loaded locking devices to secure battery plugs to receptacles. It would also codify 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 this proposed rule, and based upon its economic analysis, has determined that the proposed rule would not have an annual effect of $100 million or more on the economy. Therefore, it would not be an economically significant regulatory action pursuant to § 3(f)(1) of E.O. 12866.

The proposed rule would 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 would 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 filed petitions from 1999 to 2002. On average, 22 petitions were filed during each of the past 4 years.

Mining Sectors Affected

The proposed rule would apply to all underground gassy mines. All underground coal mines are considered gassy mines and are affected by this proposed rule. Gassy metal and nonmetal (M/NM) mines would also be affected by the proposed rule. Currently there are no battery-powered machines of the type covered by the proposed 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 would not be affected by this rule. MSHA estimates that, on average, 22 underground coal mines per year would be affected by this rule.

Benefits

MSHA has qualitatively determined that the proposed rule, which would permit use of alternate locking devices on mobile battery-powered equipment instead of using padlocks, would 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 would eliminate the problems associated with difficult removal of padlocks.

Compliance Costs

Cost savings from the proposed rule would accrue to underground coal mines that choose to use spring-loaded locking devices on mobile battery-powered equipment since they would no longer have to file a PFM. Cost savings from the proposed rule are estimated to be $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 would be $1,329. For the remaining 19 mines that employ 20 to 500 workers the cost savings would 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 x 8 hours x $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 x 0.1 hours x $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 x ((5 pages x $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 x 8 hours x $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 x 0.1 hours x $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 x ((5 pages x $0.15 per page) + $1) = $33].

There are no substantive changes proposed 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 proposed 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 proposed rule on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the proposed rule would 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 proposed rule would 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 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 proposed rule would 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 proposed rule would result only in cost savings to affected mines. Therefore, the proposed rule would 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. 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.*

VI. Paperwork Reduction Act of 1995

The proposed amendments to 30 CFR 18.41(f) would 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 the proposed rule, the number of petitions for modification filed annually related to battery plugs would be reduced. Therefore, the proposed rule would result in reducing burden hours and costs in the ICR 1219–0065 paperwork package, which concerns the filing of petitions for modification.

The proposed rule would 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 would 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 would 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 that would 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 × 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 × 0.1 hours = 0.3 hours). The hourly wage rate for a mine supervisor is $54.92 ($54.92 × 24 burden hours = $1,318.10). The hourly wage rate for a clerical worker is $19.58 ($19.58 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 would 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 × 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 × 0.1 hours = 1.9 hours). The hourly wage rate for a mine supervisor is $54.92 ($54.92 × 152 burden hours = $8,347.84). The hourly wage rate for a clerical worker is $19.58 ($19.58 × 1.9 burden hours = $37.20).

The amendment to 30 CFR 18.41(f) would eliminate a need for mine operators to file petitions for modification. Resulting from the decreased number of petitions, MSHA would 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 would 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 proposing to amend §§ 44.9, 44.10, or 44.11. We are only proposing to amend a regulation that is frequently petitioned. Consequently, MSHA would 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 would be reduced by the average number of petitions for modification currently submitted to modify the current regulation.

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 proposed rule would not include any Federal mandate that might 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)

The proposed rule would not be 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 the proposed rule would not unduly burden the Federal court system. The Agency wrote the proposed 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 the proposed rule on children and has determined that it would have no adverse effects on children.

E. Executive Order 13132 (Federalism)

MSHA has reviewed the proposed rule in accordance with Executive Order 13132 regarding federalism and has determined that it would not have federalism implications.

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

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

VIII. Petitions for Modification

On the effective date of the direct final rule, all existing petitions for modification for alternate locking devices for plug and receptacle-type connectors on mobile battery-powered machines would be superseded. Mine operators who have a previously granted petition modifying 30 CFR 75.503 and 18.41(f) would 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 would 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 proposing to amend 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—[Proposed Amendment]

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. 03–1306 Filed 1–21–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–02–020]

RIN 2115–AA97

Security Zone; Portland, OR, Rose Festival on Willamette River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a security zone surrounding the City of Portland's Waterfront Park to include all waters of the Willamette River, from surface to bottom, encompassed by the Hawthorne and Steel Bridges during the annual Rose Festival. Terrorist acts against the United States necessitate this action to properly safeguard all vessels participating in the 2003 Portland Rose Festival from terrorism, sabotage, or other subversive acts. Anticipate the security zone will have limited effects on commercial traffic and significant effects on recreational boaters; ensuring timely escorts through this security zone is a high priority of the Captain of the Port.

DATES: Comments and related material must reach the Coast Guard no later than 60 days after date of publication in the **Federal Register**.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office / Group Portland, 6767 N. Basin Ave, Portland, Oregon 97217. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Portland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Tad Drozdowski, c/o Captain of the Port, Portland, Oregon at (503) 240–2584.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13–02–020), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office/Group Portland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

This security zone is necessary to provide for the safety and security of vessels participating in the 2003 Portland Rose Festival in the navigable waters of the United States.

Discussion of Proposed Rule

This rule, for safety and security concerns, would control vessel movements in a regulated area surrounding vessels participating in the 2003 Portland Rose Festival. U.S. Naval Vessels are covered under 33 CFR 165 subpart G—Protection of Naval Vessels; however, the Portland Rose Festival is a major maritime event that draws many different vessels including Navy, Coast Guard, Army Corps of Engineers, and Canadian. It is crucial that the same level of security be provided to all participating vessels. Entry into this zone would be prohibited unless authorized by the Captain of the Port, Portland or his designated representatives. Commercial vessels that typically transit this section of the Willamette River will be pre-designated and will suffer only minor inconveniences. Recreational vessels may suffer from extended delays and can anticipate a vessel inspection. Recreational vessels are encouraged to avoid this area. Recreational vessels will be allowed into the zone on a case-by-case basis following extensive security measures, and as operations permit. Coast Guard personnel will enforce this security zone and the Captain of the Port may be assisted by other federal, state, or local agencies.

Good cause exists to shorten the notice and comment period of this notice of proposed rulemaking. The normal 90 day comment period has been shortened to 60 days to allow the Coast Guard to evaluate all comments received, make appropriate modifications to the proposed rule, and publish the final rule at least 30 days prior to the implementation of the security zone.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the