

DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Parts 21, 24, and 75**

RIN 1219-AA98

Improving and Eliminating Regulations; Flame Safety Lamps and Single-Shot Blasting Units**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.**ACTION:** Final rule; technical amendments.

SUMMARY: MSHA is removing approval regulations for flame safety lamps and single-shot blasting units because advances in technology have made these devices obsolete and, thus, have made these regulations unnecessary. Removal of these parts will not reduce protection for miners. This final rule will also make conforming amendments to safety regulations for underground coal mines which require the use of this approved equipment.

EFFECTIVE DATE: November 2, 1998.**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director; Office of Standards, Regulations, and Variances, MSHA; 703-235-1910.**SUPPLEMENTARY INFORMATION:****I. Rulemaking Background**

In response to the Administration's regulatory reinvention initiative, MSHA conducted a review of its existing regulations to identify obsolete, outdated, redundant, or unnecessary provisions that could be removed or revised without reducing protection afforded miners. This final rule is part of MSHA's ongoing plan to improve its regulations. The removal of parts 21 and 24, from title 30 of the Code of Federal Regulations (30 CFR), will not reduce protection to miners. To increase awareness of this regulatory action, MSHA will mail a copy of this final rule to all mine operators and miners' representatives and will post it on MSHA's Website.

Even though 30 CFR 21 and 24 are being removed, flame safety lamps and single-shot blasting units approved by MSHA under these parts can continue to be manufactured and distributed for use in mines, as long as this is done in accordance with the drawings and specifications upon which the approval was based and there are no changes in the approved devices.

On August 30, 1996, the Agency published a proposed rule in the **Federal Register** [61 FR 45925] requesting public comment on its intention to remove 30 CFR 21 and 24

and make conforming amendments to 30 CFR 75. The Agency allowed 90 days for public comment and received no comments, no requests for an extension of the comment period, and no requests for a public hearing.

II. Discussion of Final Rule**A. 30 CFR 21—Flame Safety Lamps**

Flame safety lamps are used to detect oxygen deficiency and methane in mine atmospheres. MSHA regulations in 30 CFR 21 repeat the requirements for approval of flame safety lamps from the former Bureau of Mines' Schedule 7C, dated August 30, 1935. Advances in technology have produced oxygen and methane detecting devices which are more accurate and reliable than flame safety lamps. As a result, methane and oxygen detectors have replaced flame safety lamps as the preferred instruments for detecting these gases in mines. In addition, 30 CFR 75.320 requires mine operators to use methane and oxygen detectors approved by MSHA to make these tests. A permissible flame safety lamp may continue to be used only as a supplemental testing device for oxygen deficiency. MSHA has not received a new application for approval of a flame safety lamp for more than 40 years.

B. 30 CFR 24—Single-Shot Blasting Units

Because of the danger of fire or explosion, only MSHA-approved blasting units can be used in underground mines that contain methane or flammable dust in dangerous concentrations. MSHA regulations in 30 CFR 24 repeat the requirements for approval of single-shot blasting units from the former Bureau of Mines' Schedule 12D, dated November 27, 1945. Advances in technology have produced multiple-shot blasting units which are safer, more versatile, and more reliable than single-shot blasting units. In addition, multiple-shot blasting units can be used to fire single shots. As a result, single-shot blasting units are rarely used in underground mines. MSHA has not received a new application for approval of a single-shot blasting unit for more than 25 years. The approval requirements for single-shot blasting units have been replaced by 30 CFR 7, subpart D, Multiple-Shot Blasting Units.

C. 30 CFR 75.506—Permissibility Requirements for Electric Face Equipment

The removal of parts 21 and 24 of 30 CFR requires conforming amendments to be made to § 75.506 of 30 CFR.

Section 75.506 includes references to former parts of 30 CFR and to former Bureau of Mines' approval schedules contained in parts of 30 CFR being removed. With the removal of parts 21 and 24, these references are no longer necessary. The approval holder and MSHA have the specifications and drawings upon which the existing approval was based. For this reason, MSHA is removing the following references to former parts of 30 CFR and former Bureau of Mines' schedules from § 75.506(d):

Electric Cap Lamps, Bureau of Mines Schedules 6D, August 26, 1939 (Part 19);

Electric Mine Lamps, Other than Standard Cap Lamps, Bureau of Mines Schedule 10C, May 17, 1938 (Part 20);

Flame Safety Lamps, Bureau of Mines Schedule 7C, August 30, 1935 (Part 21);

Portable Methane Detectors, Bureau of Mines Schedule 8C, October 31, 1935 (Part 22);

Telephone and Signaling Devices, Bureau of Mines Schedule 9B, October 25, 1938 (Part 23);

Single Shot Blasting Units, Bureau of Mines Schedule 12D, November 27, 1945, (Part 24);

Multiple Shot Blasting Units, Bureau of Mines Schedule 16E, May 19, 1960 (Part 25);

Lighting Equipment for Illuminating Underground Workings, Bureau of Mines Schedule 29A, December 2, 1958 (Part 26); and

Methane-Monitoring Systems, Bureau of Mines Schedule 32A, July 27, 1966 (Part 27).

Electrical equipment approved by MSHA under these parts or former Bureau of Mines' approval schedules can continue to be manufactured and distributed for use in mines, as long as this is done in accordance with the drawings and specifications upon which the approval was based and there are no changes in the approved devices. This final rule will retain the list of equipment that will be considered permissible electric face equipment if it has been approved by MSHA.

III. Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of regulations. MSHA has determined that this final rule does not meet the criteria for a significant regulatory action and, therefore, has not prepared a separate analysis of costs and benefits. The analysis contained in this preamble meets MSHA's obligations under E.O. 12866 and the Regulatory Flexibility Act.

The Regulatory Flexibility Act (RFA) requires regulatory agencies to consider a rule's impact on small entities. The RFA requires that MSHA use the Small Business Administration (SBA) definition for a small mine of 500 or fewer employees 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 traditionally has considered small mines to be those with fewer than 20 employees and has analyzed the impact of the final rule on mines with 500 or fewer employees and on those with fewer than 20 employees.

Regulatory Flexibility Certification

In accordance with § 605 of the RFA, MSHA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. No small governmental jurisdictions or nonprofit organizations are affected.

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, MSHA must include in the final rule a factual basis for this certification. The Agency also must publish the regulatory flexibility certification in the **Federal Register**, along with its factual basis. The Agency believes that this analysis provides a reasonable basis for the certification in this case.

The Agency has provided a copy of this final rule and regulatory flexibility certification statement to the SBA Office of Advocacy. In addition, MSHA will mail a copy of the final rule, including the preamble and regulatory flexibility certification statement, to all affected mines and miners' representatives.

Factual Basis for Certification

MSHA used a qualitative approach in concluding that the final rule will not have a significant economic impact on

a substantial number of small entities. This final rule removes approval regulations for obsolete equipment. The benefit of removing obsolete provisions is that MSHA regulations will be more concise, clearer, easier to use, and reflect advances in technology. This final rule will have no economic impact on the mining industry.

V. Paperwork Reduction Act

This final rule contains no information collection requirements subject to the Paperwork Reduction Act of 1995.

VI. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this final rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or by the private sector.

VII. Executive Order 13045

In accordance with Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, MSHA has evaluated the environmental health and safety risks of the final rule on children. The Agency has determined that the final rule will have no effect on children.

List of Subjects

30 CFR Part 21

Mine safety and health.

30 CFR Part 24

Explosives, Mine safety and health.

30 CFR Part 75 Mine safety and health, Underground mining.

Dated: August 24, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Accordingly, under the authority of 30 U.S.C. 957 and 961, and for the

reasons set out in the preamble, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

PART 21—[REMOVED]

1. Part 21 is removed.

PART 24—[REMOVED]

2. Part 24 is removed.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

3. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

4. Section 75.506 is amended by revising paragraph (d) to read as follows:

§ 75.506 Electric face equipment; requirements for permissibility.

* * * * *

(d) The following equipment will be permissible electric face equipment only if it is approved under the appropriate parts of this chapter, or former Bureau of Mines' approval schedules, and it is in permissible condition:

- (1) Multiple-Shot Blasting Units, part 7 subpart D;
- (2) Electric Cap Lamps, part 19;
- (3) Electric Mine Lamps Other than Standard Cap Lamps, part 20;
- (4) Flame Safety Lamps;
- (5) Portable Methane Detectors, part 22;
- (6) Telephone and Signaling Devices, part 23;
- (7) Single-Shot Blasting Units;
- (8) Lighting Equipment for Illuminating Underground Workings, part 26; and
- (9) Methane-Monitoring Systems, part 27.

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