

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

E. Executive Order 13132 (Federalism)

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

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

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

List of Subjects in 30 CFR Part 18

Mine Safety and Health, Underground mining.

Dated: June 13, 2003.

John R. Caylor,

Deputy 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 an equivalent statement; 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," or an equivalent statement.

[FR Doc. 03-15700 Filed 6-20-03; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 71 and 75

RIN 1219-AA98 (Phase 9)

Standards for Sanitary Toilets in Coal Mines

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

ACTION: Final rule.

SUMMARY: This final rule removes the application requirement and associated paperwork burden for approval of sanitary toilets in underground and surface coal mines. The final rule provides notice to miners, miners' representatives, mine operators, MSHA compliance specialists, and manufacturers of which sanitary toilets are approved without requiring applications for approval. The rule has no substantive effect on the sanitation standards. The types of approved toilets are drawn from the American National Standards Institute (ANSI) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements* upon which MSHA and the National Institute for Occupational Safety and Health (NIOSH) previously based approval of applications.

DATES: This final rule is effective July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: 202-693-9440; FAX: 202-693-9441; E-mail: nichols-marvin@msha.gov.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope of Rulemaking

The Office of Management and Budget's (OMB's) current approval for §§ 71.500 and 75.1712-6 under control number 1219-0101 expires on November 30, 2003. OMB approval was contingent upon MSHA initiating rulemaking "to update and simplify this standard with the goal of eliminating unnecessary requirements and reducing the unnecessary burdens." In response to OMB concerns, MSHA published a direct final rule (68 FR 19347) and a companion proposed rule (68 FR 19477) on April 21, 2003 to eliminate the

paperwork burden. The rule was restricted to the approval application requirement and did not address other aspects of MSHA's standards for sanitary facilities at coal mines. Sanitary toilet facilities for surface work areas of underground mines remain subject to the provisions of 30 CFR 75.1712-3, which is unchanged.

II. Response to Significant Adverse Comments

As a result of comments received, MSHA has withdrawn the direct final rule (68 FR 19347) by a document publishing in the **Federal Register** on June 20, 2003. MSHA received significant adverse comments. As stated in the direct final rule:

A significant adverse comment is one that explains (1) why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, MSHA will consider whether it warrants a substantive response in a notice and comment process.

Most comments addressed sanitation issues that are outside the scope of this limited rule; however, MSHA has fully considered and responded below to two issues that warrant a substantive response.

A. Use of Combustion or Incinerating Toilets Underground

Section 75.1712-6(c) of the direct final rule specifically prohibited use of combustion or incinerating toilets underground. Certain comments challenged this prohibition. These comments contend that electronic incinerating toilets can be safely installed underground in areas where MSHA allows non-permissible electrical equipment.

MSHA has fully considered this comment. Incineration, by definition, is disposal by burning. MSHA has never approved an application for this method of waste disposal in an underground coal mine. Although the ignition source is electric, and the toilets could be located in areas where non-permissible electric equipment may be allowed underground, incineration involves combustion of an organic compound and would introduce an ignition source.

The comments suggest that MSHA address the hazards of incinerator toilets underground in the following ways. The toilets should be located in "well rock-dusted" areas. Fire extinguishers should be provided. The toilets should be located in areas other than the return air course. The toilets should be inspected

during pre-shift and on-shift exams. And finally, electrical breakers and ground fault monitoring systems should be required.

MSHA has fully considered and rejected these suggestions. Under the approval application process replaced by this rule, MSHA never imposed requirements concerning the location and examination of toilets, or made approval contingent upon use of supplemental equipment. Consequently, the final rule retains the prohibition against combustion and incinerating toilets in underground coal mines.

MSHA recognizes that further developments in waste-disposal technology could preclude the need for these supplemental requirements. Technological developments will be guided by the need to avoid the introduction of ignition sources underground. Technological advances in non-sewered waste disposal for underground coal mines should not be restricted by the broad categories of approved toilets in the final rule. Future technology can be addressed in subsequent rulemaking.

B. Elimination of Approval Process

Comments opposed the elimination of the MSHA and MSHA and NIOSH approval processes for underground and surface coal mines, respectively. One of these comments stated that sanitary toilets approved by MSHA are "stamped" or "marked" as approved upon completion of the application process. Although certain mine operators and manufacturers may have chosen to affix such labels, MSHA has never imposed such a requirement for sanitary toilets nor provided such labels.

The approval criteria used by MSHA (underground) and MSHA and NIOSH (surface) remains the same under the final rule. Under the final rule, the mining community will have notice of the types of toilets which are permitted. This information will provide better protection by notifying miners, miners' representatives, MSHA compliance specialists, mine operators, and manufacturers of which types of toilets are approved and by referring directly to the ANSI standard from which the criteria were drawn. The final rule does not change any other sanitation standards. For these reasons, we have rejected these comments.

C. Other Comments.

Other comments addressed sanitation issues unrelated to the toilet application approval process. The comments include discussions of the biological hazards of human feces, the Hazard

Communication standard and Material Safety Data Sheets, labeling requirements, issuance of an Emergency Temporary Standard concerning sanitary toilets, and amendment of other sanitation standards not the subject of this rule.

None of these comments addressed the underlying premise or approach of the rule, or explained why eliminating the application requirement would be ineffective or unacceptable without a change. Consequently, these are not significant adverse comments and no changes to the final rule were considered based upon these comments.

III. Background.

A. Regulatory History.

The United States Department of the Interior, Mining Enforcement and Safety Administration (MESA), MSHA's predecessor, originally promulgated sanitation standards requiring approval of sanitary toilets under the Federal Coal Mine Health and Safety Act of 1969. MESA promulgated 30 CFR 75.1712-6 on November 20, 1970 (35 FR 17890) and 30 CFR 71.500 on March 28, 1972 (37 FR 6368). MSHA retained these regulations under the authority of the Federal Mine Safety and Health Act of 1977, which became effective on March 9, 1978. No substantive changes have been made to either provision since they were promulgated.

Under those standards, MSHA approved sanitary toilets for use in underground coal mines, and MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approved sanitary toilets for use in surface coal mines. MSHA and NIOSH based their approval on criteria drawn from the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements*.

This final rule removes the application requirement while retaining the same criteria for the sanitary toilets permitted at coal mines. By stating which sanitary toilets meet the standard, the rule eliminates the need for manufacturers or mine operators to file an individual application for approval. Removing the application requirements has no substantive effect on the sanitation standards.

B. MSHA and MSHA/NIOSH Approved Toilets Criteria.

MSHA and NIOSH approval criteria are drawn from the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—*

Nonsewered Waste-Disposal Systems—Minimum Requirements, ANSI Z4.3–1987 (Reaffirmed 1995). MSHA and NIOSH base the definitions for the various types of toilets and components of the toilet facility on Section 2; the general requirements for auxiliary features on Sections 3.7, 3.8, and 3.9; and the specific design criteria on Section 7.

Exceptions. Although a privy is listed in ANSI Z4.3–1987 (Reaffirmed 1995),

privies are not approved for use at any coal mine because sewage could seep through the earth walls and contaminate ground water, earth walls could fail under the harsh conditions at a coal mine, and rain and run-off could flood the privy causing it to overflow and contaminate the mine. Combustion or incinerating toilets are prohibited underground because they can create a fire hazard by introducing an ignition source. Although a toilet paper holder is

required for surface mines, MSHA does not require a toilet paper holder on unenclosed sanitary toilets underground because it is impractical.

C. Types of Approved Sanitary Toilets

The following table contains excerpts from ANSI Z4.3–1987 (Reaffirmed 1995) for the types of sanitary toilets approved for use in coal mines. Sanitary toilets meeting these criteria are in compliance with the standard.¹

Definitions (ANSI Z4.3 Section 2)	Types of toilet facilities (ANSI Z4.3 Section 7)
Vault Toilet	
<p>2.2.2 * * * A vault toilet facility is one wherein the waste is deposited without flushing in a permanently installed, watertight, below-ground container.</p>	<p>7.1.1. The vault-toilet tank shall be durable and corrosion-resistant and shall provide a minimum capacity of 378 L (100 gal) per seat. 7.1.2. Where a caustic chemical is used, the charge per seat shall be a minimum of 11.3 kg (25 lbs.) of caustic dissolved in 37.5 L (10 gal) of water. 7.1.3. The chemical shall be drained and the receptacle recharged every 6 months when in continuous use, or at least at the beginning of each season of operation when in intermittent use, or when three-fourths full, whichever occurs first. 7.1.4. Tanks shall be vented to the outside with a minimum nominal venting area of 45 cm² (7 in²). 7.1.5. The tank shall be equipped with a manhole external to the structure for cleaning and for removal of caustic chemicals. The manhole shall be covered so as to prevent escape of gases and odors.</p>
Sealed-Bag Toilet	
<p>2.2.3 * * * A sealed-bag toilet facility is one wherein the waste of each user is deposited, without flushing, into a bag, generally plastic, which is then sealed for later disposal. The structure housing a sealed-bag-toilet facility may be permanent or portable.</p>	<p>7.2.1. All materials and fittings shall be corrosion resistant. 7.2.2. The bag shall be made of material of sufficient strength so as not to leak and, once sealed, so as to retain the waste until such time as the bag is removed from the toilet for disposal.</p>
Combustion or Incinerating Toilet	
<p>2.3 * * * A combustion- or incinerating-toilet facility is one wherein the waste is deposited, with or without flushing, into a combustion chamber, where it is incinerated. The structure housing a combustion- or incinerating-toilet facility may be permanent or portable.</p>	<p>7.3.1. All external surfaces, including bowl and hopper, shall be easy to clean. 7.3.2. The residue of combustion or incineration shall be sterile and inert. 7.3.3. The flue effluents shall be free of viable bacteria. 7.3.4. The combustion system and all fuel and electrical parts shall be safe and in compliance with applicable gas and electrical codes of local authorities. Where such codes do not exist, the installation shall comply with American National Standard National Electrical Code, ANSI/NFPA 70–1987, or with American National Standard for Gas-Fired Toilets, ANSI Z21.61–1983, and American National Standard National Fuel Gas Code, ANSI Z223.1–1984 and ANSI Z223.1a–1987.</p>
Chemical Toilet and Biological Toilet	
<p>2.2.1 * * * A chemical-toilet facility is a nonflush-toilet facility wherein the waste is deposited directly into a container containing a solution of water and chemical. It may be housed in a permanent or portable structure. 2.4 * * * A biological-toilet facility is one wherein the waste is deposited, with or without flushing, into a waste container integral to the toilet facility, where it is treated by means of biological agents or aeration.</p>	<p>7.4.1. Waste containers shall be fabricated from nonabsorbent, watertight materials. 7.4.2. Portable chemical and biological toilets and urinals that are free standing and not installed in a toilet room do not require a ventilation system. 7.4.3. Chemicals or biological agents, if used in the waste container, shall be in accordance with applicable federal, state, and local provisions.</p>

¹MSHA prohibits the use of these toilets in underground coal mines, see § 75.1712–6(c).

Definitions (ANSI Z4.3 Section 2)	Types of toilet facilities (ANSI Z4.3 Section 7)
Nonwater-Flush Toilet	
2.1.2 * * * A nonwater flush-toilet facility is one wherein the waste is flushed from the bowl and the bowl cleansed by a fluid other than water, with the fluid deposited in a container or receptacle, or treated and recirculated as in 2.1.1; such facilities include, but are not limited to, oil-flush-toilet facilities.	7.5.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.5.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.5.3. Flushing shall be accomplished by controls operable without special knowledge. Upon flushing, fluid shall enter the bowl and pass through with a vigorous flow sufficient to carry the waste from the bowl into the waste container. 7.5.4. Chemicals, if used in the waste container, shall be in accordance with applicable local, state, and federal provisions.
Water-Flush Toilet	
2.1.1 * * * A water-flush-toilet facility is one wherein the waste is carried from the bowl and the bowl cleansed by water, and the combined water and waste is deposited into a container or receptacle, or recirculated by a closed system for flushing purposes; such facilities include, but are not limited to, vacuum-toilet facilities.	7.6.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.6.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.6.3. Flushing shall be accomplished by controls operable without special knowledge. 7.6.4. Chemicals, if used, shall be in accordance with applicable local, state, and federal provisions.

Source: American National Standard Institute (ANSI), *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements*, (ANSI Z4.3–1987) (Reaffirmed 1995).

IV. Section-by-Section Discussion

The following discussion explains the final rule's provisions.

A. 30 CFR 71.500 for Surface Coal Mines

Section 71.500 requires all surface coal mine operators to provide at least one approved sanitary toilet at a location convenient to each surface work site and one additional approved sanitary toilet for each 10 miners working at a location. Only those types of toilets listed in this section are approved. Sanitary toilets must have a toilet paper holder with an adequate supply of toilet paper and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995). Use of privies is prohibited.

B. 30 CFR 75.1712–6 for Underground Coal Mines

Section 75.1712–6 requires all underground coal mine operators to provide and maintain one approved sanitary toilet in a dry location under protected roof within 500 feet of each working place where miners regularly work. Only those types of toilets listed in this section are approved. Sanitary toilets, except for unenclosed toilet facilities provided in accordance with § 75.1712–6(b), must have a toilet paper holder with an adequate supply of toilet paper, and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995). Privies

and combustion or incinerating toilets are prohibited underground.

V. The Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, and Executive Order 12866

In accordance with Executive Order (E.O.) 12866, MSHA has analyzed the estimated costs and benefits associated with this final rule, and has included its Regulatory Economic Analysis (REA) in this preamble. This final rule includes no additional costs for the mining industry and eliminates the costs associated with filing an application for approval. This final rule is not an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), MSHA certifies that this final rule does not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, the Agency must include the factual basis for this certification in the final rule. Accordingly, the Agency is publishing the factual basis for its regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and is providing a copy to the Small Business Administration (SBA), Office of Advocacy. MSHA also will mail a copy of the final rule, including the preamble and certification statement, to coal mine operators and

miners' representatives and post it on the Agency's Internet Home Page at <http://www.msha.gov>.

Factual basis for certification

MSHA is issuing a final rule amending 30 CFR parts 71 and 75, concerning applications for approval of sanitary toilets. The Agency is amending its regulations to state which sanitary toilets meet the standard in order to eliminate the need for manufacturers or mine operators to file an application for approval and to avoid the associated cost and paperwork burden.

Manufacturers are the primary applicants for MSHA or MSHA/NIOSH approval of sanitary toilets. In the last four years, seven manufacturers of portable toilets filed applications to request approval of sanitary toilets. During this same period, only one mine operator filed an application to request approval of sanitary toilets. MSHA expects that the number and distribution of applications over the past four years is representative of future applications in the absence of this final rule. MSHA estimates that, on average, in the absence of the final rule, portable toilet manufacturers will file 1.75 applications each year, and mine operators will file 0.25 applications each year.

Traditionally, MSHA has considered a small mine to be one with fewer than 20 employees. Based on MSHA's definition, the mine operator is

considered large in that it employs 20 or more workers. The Small Business Administration (SBA) definition for a small business in the mining industry is one with 500 or fewer employees. The mine operator that filed the application is considered a small business by SBA's definition in that it employs fewer than 500 workers. Based on SBA's definition, manufacturers of portable toilets (plastics), NAICS Code 326191 (SIC Code 3088), are defined as small if they have fewer than 500 employees. All of the portable toilet manufacturers are small businesses, according to SBA, because each employs fewer than 500 workers.²

Compliance Costs

Cost savings from this final rule accrue to sanitary toilet manufacturers and mine operators because they will no longer have to file an application for approval of sanitary toilets. Cost savings from this rule are estimated at \$407 annually. The cost savings are based upon the elimination of the filing of an average of 1.75 applications per year by manufacturers and 0.25 applications per year by mine operators. For the manufacturers, cost savings will be \$296 annually. For mine operators, cost savings will be \$111 annually.

The annual cost savings of \$296 for manufacturers is derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, earning \$20.82 per hour,³ takes 8 hours to prepare an application (1.75 applications \times 8 hours \times \$20.82 per hour = \$291.48). In addition, a clerical worker, earning \$12.66 per hour,⁴ takes 0.1 hour to copy and mail an application (1.75 applications \times 0.1 hour \times \$12.66 per hour = \$2.22). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are \$0.15 per page, and postage is \$1 [1.75 applications \times ((2 pages \times \$0.15 per page) + \$1) = \$ 2.28].

The annual cost savings of \$111 for the mine operator is derived in the following manner. On average, a mine supervisor, earning \$54.92 per hour, takes 8 hours to prepare an application

(0.25 application \times 8 hours \times \$54.92 per hour = \$109.84). In addition, a clerical worker, earning \$19.58 per hour, takes 0.1 hour to copy and mail an application (0.25 application \times 0.1 hour \times \$19.58 per hour = \$ 0.49). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are \$0.15 per page, and postage is \$1 [0.25 application \times ((2 pages \times \$0.15 per page) + \$1) = \$0.33].

This final rule eliminates the application process and provides simple compliance information directly to the public, thus eliminating the annual cost burden.

VI. Paperwork Reduction Act

This final rule contains no additional information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Consequently, the information collection currently approved by OMB under control number 1219-0101 will no longer be necessary and will be withdrawn.

This final rule will result in 16 annual burden hour savings and associated annual burden cost savings of \$404 related to elimination of 2 applications annually for sanitary toilets. Of this total, for the 1.75 portable toilet manufacturers, there will be 14 burden hours savings annually and associated annual burden costs savings of \$294. For the 0.25 mine operators, there will be 2 burden hours savings annually and associated annual burden cost savings of \$110.

The annual reduction of 14 burden hours and the \$294 annual burden costs savings for the 1.75 portable sanitary toilet manufacturers are derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, takes 8 hours to prepare an application (1.75 applications \times 8 hours = 14 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an application (1.75 applications \times 0.1 hour = 0.18 hours). The hourly wage rate for a first-line supervisor at a portable toilet manufacturing facility is \$20.82 (\$20.82 \times 14 burden hours = \$291.48). The hourly wage rate for a clerical worker (billing and posting clerks) is \$12.66 (\$12.66 \times 0.18 burden hours = \$2.28).

The annual reduction of 2 burden hours and the \$110 annual burden costs savings for the 0.25 mines are derived in the following manner. On average, a mine supervisor takes 8 hours to prepare an application (0.25 applications \times 8 hours = 2 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an

application (0.25 applications \times 0.1 hour = 0.03 hour). The hourly wage rate for a mine supervisor is \$54.92 (\$54.92 \times 2 hours = \$109.84). The hourly wage rate for a clerical worker is \$19.58 (\$19.58 \times 0.03 hours = \$0.58).

This final rule removes this burden by eliminating the application process and providing information directly to the public.

VII. Other Regulatory Considerations

A. The National Environmental Policy Act of 1969

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of its actions. This final rule has no environmental impact because it has no substantive effect on the existing standards.

B. Unfunded Mandates Reform Act of 1995

We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this 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 final rule does not significantly or uniquely affect these entities.

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

This 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

In accordance with Executive Order 12988, we have determined that this final rule will not unduly burden the Federal court system. We wrote the final rule to provide a clear legal standard for affected conduct and have reviewed it 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 final rule and have determined that it has no adverse effects on children.

² Small Business Administration, Small Business Size Standards Matched to North American Industry Classification System (NAICS), Effective July 1, 2002. (<http://www.sba.gov/size/sizetable.html>).

³ U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries—Chemicals Manufacturing, Except Drugs. (<http://www.bls.gov/oco/cgs/cgs008.htm>).

⁴ U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics—2001 National Occupational Employment and Wage Estimates. (<http://www.bls.gov/oes/2001/oes433021.htm>).

F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this final rule and have determined that it does not have "federalism" implications.

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

In accordance with Executive Order 13175, we certify that this final rule does not impose substantial 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 this final rule and have determined that it has no 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.

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

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the 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 final rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects*30 CFR Part 71*

Coal mines, Mine safety and health, Surface mining.

30 CFR Part 75

Coal mines, Mine safety and health, Underground mining.

Dated: June 18, 2003.

John R. Caylor,

Deputy Assistant Secretary of Labor 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, MSHA is amending chapter I, parts 71 and 75, of title 30 of the Code of Federal Regulations as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 30 U.S.C. 811, 951, 957.

■ 2. Section 71.500 is revised to read as follows:

§ 71.500 Sanitary toilet facilities at surface work sites; installation requirements.

(a) Each operator of a surface coal mine shall provide and install at least one sanitary toilet in a location convenient to each surface work site. A single sanitary toilet may serve two or more surface work sites in the same surface mine where the sanitary toilet is convenient to each such work site.

(b) Where 10 or more miners use such toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary toilet for each 10 miners.

(c) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue.

(d) Only flush or nonflush chemical or biological toilets, combustion or incinerating toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies are prohibited.

(Note to paragraph (d): Sanitary toilet facilities for surface work areas of underground mines are subject to the provisions of § 75.1712–3 of this chapter.)

PART 75—[AMENDED]

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

Authority: 30 U.S.C. 811.

■ 4. Section 75.1712–6 is revised to read as follows:

§ 75.1712–6 Underground sanitary facilities; installation and maintenance.

(a) Except as provided in § 75.1712–7, each operator of an underground coal mine shall provide and maintain one sanitary toilet in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue, except that a toilet paper holder is not required for an unenclosed toilet facility.

(c) Only flush or nonflush chemical or biological toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies and combustion or incinerating toilets are prohibited underground.

[FR Doc. 03–15813 Filed 6–20–03; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 9**

[OPPT–2003–0002; FRL–7314–5]

OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment updates the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for information collection requirements contained in EPA's regulations that are promulgated in title 40 of the Code of Federal Regulations (CFR). This technical amendment adds new approvals published in the **Federal Register** since July 1, 2000, and removes expired and terminated approvals.

DATES: This rule is effective June 23, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about OMB approval for information collections required by EPA regulations. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0002. The official public docket consists of the documents specifically referenced in this action, any public comments received, and