

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.<sup>2</sup>

#### 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,<sup>3</sup> 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,<sup>4</sup> 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.

<sup>2</sup> 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>).

<sup>3</sup> U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries—Chemicals Manufacturing, Except Drugs. (<http://www.bls.gov/oco/cgs/008.htm>).

<sup>4</sup> 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>).