

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.

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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:

Angela F. Hofmann, Director, Regulatory Coordination Staff, Office of Prevention, Pesticides and Toxic Substances (7101M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0258; e-mail address: hofmann.angela@epa.gov.

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

other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 9 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr9_00.html, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background

A. Why is this Technical Amendment Being Issued?

This document updates the OMB control numbers listed in 40 CFR part 9 for various actions published in the **Federal Register** since July 1, 2000, and issued under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136), and the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 408). EPA will continue to present OMB control numbers in a consolidated table format in 40 CFR part 9 of the Agency's regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements that require OMB approval under the PRA (44 U.S.C. 3501 *et seq.*), and the current

OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the PRA (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

B. Why is this Technical Amendment Issued as a Final Rule?

The information collection activities included in this document were previously subject to public notice and comment prior to OMB approval, as part of the OMB approval or rulemaking process. Therefore, EPA finds that publication of a proposed rule is unnecessary and would waste public tax dollars. This technical amendment is effective upon publication under the "good cause" clause found in section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) which allows a regulatory action to become final without prior notice and comment.

C. What Specific Changes are Being Made?

The following changes are being made to the table in § 9.1:

1. *Table amended to reflect new requirements.* In the **Federal Register** of July 19, 2001 (66 FR 37772) (FRL-6057-7), EPA issued final regulations under FIFRA for Plant-Incorporated Protectants (Formerly Plant-Pesticides), with provisions codified in 40 CFR parts 152 and 174. The information collection requirements contained in this rule consisted of up-front substantiation for claims of CBI for plant-incorporated protectant activities (*e.g.*, EUP submissions, registration applications, tolerance requests, and adverse-effects reporting), and for adverse-effects reporting for the otherwise exempt plant-incorporated protectants. OMB approved the Information Collection Request (ICR) for this rule on July 31, 2001, under OMB control number 2070-0142 (EPA ICR No. 1693.02). EPA announced this approval in the **Federal Register** on September 28, 2001 (66 FR 49664) (FRL-7069-8). Copies of these documents are available in the docket described in Unit I.B.1.

2. *Table amended to reflect ICR consolidation.* EPA consolidated the information collection activities related to the PCB regulations in 40 CFR part 761 under a single ICR. All of these information collection activities were already approved by OMB under the following OMB control numbers: 2070-0003 (EPA ICR No. 1000); 2070-0008 (EPA ICR No. 1001); 2070-0011 (EPA ICR No. 1012); 2070-0021 (EPA ICR No. 857); 2070-0112 (EPA ICR No. 1446);

and 2070-0159 (EPA ICR No. 1729), and the table in part 9 identified these OMB control numbers. OMB approved the consolidated ICR on August 29, 2001, under OMB control number 2070-0112 (EPA ICR No. 1446.07). EPA announced this approval in the **Federal Register** on December 14, 2001 (66 FR 64817) (FRL-7118-4), see also the **Federal Register** of February 12, 2002 (67 FR 6519) (FRL-7142-4). Copies of these documents are available in the docket described in Unit I.B.1.

3. *Table amended to reflect changes in the regulations.* Since July 1, 2001, EPA has taken several actions related to significant new use rules (SNURs) promulgated under TSCA section 5(a)(2). The paperwork burden associated with a SNUR has been approved under OMB control numbers 2070-0012 (EPA ICR No. 0574.11), when related to new chemicals, and 2070-0038 (EPA ICR No. 1188.07), when related to existing chemicals. These ICRs were first approved in the late 1980s and have been renewed every 3 years, and the latest approval for these ICRs were announced in the **Federal Register** on September 28, 2001 (66 FR 49664) for 2070-0012, and in the **Federal Register** on February 3, 2003 (68 FR 5288) (FRL-7446-7) for 2070-0038. Copies of these documents are available in the docket described in Unit I.B.1.

EPA is removing several entries because the SNURs have been revoked. Specifically, in the **Federal Register** on December 11, 2001 (66 FR 63941) (FRL-6807-3), EPA removed §§ 721.3460 and 721.6820, and in the **Federal Register** on September 27, 2002 (67 FR 60991) (FRL-7186-9), EPA removed §§ 721.3628, 721.5300, and 721.8170. Since these provisions no longer exist, the corresponding listing in the table should be removed as well.

EPA is adding several entries to reflect the promulgation of the SNURs. Specifically, in the **Federal Register** on March 11, 2002 (67 FR 11007) (FRL-6823-6), EPA established a new § 721.9582. In the **Federal Register** on April 11, 2002 (67 FR 17643) (FRL-6805-1), EPA established new §§ 721.1230, 721.1240, 721.3780, and 721.8175. In the **Federal Register** on March 28, 2003 (68 FR 15061) (FRL-6758-7), EPA established the following new §§ 721.321; 721.338; 721.463; 721.465; 721.522; 721.525; 721.532; 721.533; 721.638; 721.648; 721.843; 721.910; 721.990; 721.1767; 721.1852; 721.1878; 721.1880; 721.2093; 721.2155; 721.2465; 721.2577; 721.2582; 721.2584; 721.2673; 721.3805; 721.3807; 721.3812; 721.3818; 721.3848; 721.4136; 721.4486; 721.4575; 721.5260; 721.5262; 721.5283;

721.5286; 721.5452; 721.5454; 721.5590; 721.5925; 721.6005; 721.6178; 721.6181; 721.6183; 721.6205; 721.8085; 721.8658; 721.8920; 721.9502; 721.9504; 721.9538; 721.9597; and 721.9952. The table is amended to list these new sections, along with their corresponding OMB control number as identified in the final rule.

III. Statutory and Executive Order Reviews

This final rule implements technical amendments to 40 CFR part 9 to reflect changes to OMB approvals under the PRA. It does not otherwise impose or amend any requirements. As such, this action is not a "significant regulatory action" under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), and is therefore not subject to review by OMB.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This rule does not contain any new information collection requirements that require review or approval by OMB pursuant to the PRA. The information collection activities associated with the OMB control numbers contained in this document have already been approved by OMB.

Since the Agency has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute (*see* Unit II.B.), this action is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Similarly, this rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of

power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not a significant regulatory action under Executive Order 12866.

This action will not result in environmental justice related issues and does not therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

IV. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 of CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 23, 2003. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 13, 2003.

Stephen L. Johnson,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, the table is amended by adding a new heading and its entries in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *				
40 CFR citation			OMB control No.	
*	*	*	*	*
Procedures and Requirements for Plant-Incorporated Protectants				
174.9			2070-0142	
174.71			2070-0142	
*	*	*	*	*

■ 3. In § 9.1, the table is amended under the heading "Significant New Uses of Chemical Substances" by removing the entries 721.3460, 721.3628, 721.5300, 721.6820, and 721.8170.

■ 4. In § 9.1, the table is amended under the heading "Significant New Uses of Chemical Substances" by adding the following entries in numerical order:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *				
40 CFR citation			OMB control No.	
*	*	*	*	*
Significant New Uses of Chemical Substances				
*	*	*	*	*
721.321			2070-0012	
*	*	*	*	*
721.338			2070-0012	
*	*	*	*	*
721.463			2070-0012	
721.465			2070-0012	

40 CFR citation	OMB control No.	40 CFR citation	OMB control No.	40 CFR citation	OMB control No.
721.522	2070-0012	721.6178	2070-0012	761.208	2070-0112
721.525	2070-0012	721.6181	2070-0012	761.209	2070-0112
721.532	2070-0012	721.6183	2070-0012	761.210	2070-0112
721.533	2070-0012	721.6205	2070-0012	761.211	2070-0112
721.638	2070-0012	721.8085	2070-0012	761.215	2070-0112
721.648	2070-0012	721.8175	2070-0012	761.218	2070-0112
721.843	2070-0012	721.8658	2070-0012	761.253	2070-0112
721.910	2070-0012	721.8920	2070-0012	761.274	2070-0112
721.990	2070-0012	721.9502	2070-0012	761.295	2070-0112
721.1230	2070-0012	721.9504	2070-0012	761.314	2070-0112
721.1240	2070-0012	721.9538	2070-0012	761.357	2070-0112
721.1767	2070-0012	721.9582	2070-0038	761.359	2070-0112
721.1852	2070-0012	721.9597	2070-0012	761.395	2070-0112
721.1878	2070-0012	721.9952	2070-0012	761.398	2070-0112
721.1880	2070-0012				
721.2093	2070-0012				
721.2155	2070-0012				
721.2465	2070-0012				
721.2577	2070-0012				
721.2582	2070-0012				
721.2584	2070-0012				
721.2673	2070-0012				
721.3780	2070-0012				
721.3805	2070-0012				
721.3807	2070-0012				
721.3812	2070-0012				
721.3818	2070-0012				
721.3848	2070-0012				
721.4136	2070-0012				
721.4486	2070-0012				
721.4575	2070-0012				
721.5260	2070-0012				
721.5262	2070-0012				
721.5283	2070-0012				
721.5286	2070-0012				
721.5452	2070-0012				
721.5454	2070-0012				
721.5590	2070-0012				
721.5925	2070-0012				
721.6005	2070-0012				

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA093-CORR; FRL-7516-9]

Correction of Designation of Areas for Air Quality Planning Purposes; California-PM-10 Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects language in title 40 of the Code of Federal Regulations that was promulgated in final rules published in the **Federal Register** on August 6, 2002 and May 7, 2003.

EFFECTIVE DATE: This rule is effective on June 23, 2003.

SUPPLEMENTARY INFORMATION: On August 6, 2002 (67 FR 50805) and May 7, 2003 (68 FR 24368), EPA published final rulemaking actions approving redesignation requests of the California State Implementation Plan (SIP). Both of these actions contained amendments to the PM-10 table found in 40 CFR part 81, § 81.305.

The August 6, 2002 action omitted the designation and classification dates and types for a portion of San Bernardino County. The May 7, 2003 action failed to note the designation of the Indian Wells Valley planning area as attainment with an effective date.

With this action, we are also correcting the list of counties in the San Joaquin Valley Planning Area (SJVPA). The table will now contain all counties within the SJVPA in alphabetical order. The entry will now read: Fresno, Kern,

■ 5. In § 9.1, the table is amended by revising the entries under the heading "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
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Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions	
761.20	2070-0112
761.30	2070-0112
761.35	2070-0112
761.40	2070-0112
761.60	2070-0112
761.61	2070-0112
761.62	2070-0112
761.65	2070-0112
761.70	2070-0112
761.71	2070-0112
761.72	2070-0112
761.75(b) and (c)	2070-0112
761.77	2070-0112
761.79(f) and (h)	2070-0112
761.80(e), (g), (i) and (n)	2070-0112
761.125	2070-0112
761.180	2070-0112
761.185	2070-0112
761.187	2070-0112
761.193	2070-0112
761.202(a)	2070-0112
761.205	2070-0112
761.207	2070-0112