

profit enterprise which is independently owned and operated and is not dominant in its field.

| NAICS code | Economic activity or industry | Size standard in number of employees, millions of dollars of revenues, or output |
|--------------|---|--|
| 322121 | Pulp mills | 750 |
| 322122 | | |
| 325211 | Plastics materials, synthetic resins, and nonvulcanized elastomers | 750 |
| 325188 | Industrial organic chemicals | 1,000 |
| 325199 | | |
| 324110 | Petroleum refining | 1,500 |
| 331111 | Steel works, blast furnaces, and rolling mills | 1,000 |
| 333611 | Steam, gas, and hydraulic turbines | 1,000 |
| 333618 | Stationary internal combustion engines | 1,000 |
| 333415 | Air-conditioning and warm-air heating equipment and commercial and industrial refrigeration equipment | 750 |
| 222111 | Electric utilities | ¹ 4 |
| 222112 | | |
| 486210 | Natural gas transmission | \$6.0 |
| 221330 | Steam and air conditioning supply | \$10.5 |

¹ Million megawatt hrs.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Today's proposal, if promulgated, would not create new requirements for small entities or other sources. Instead, this action is proposing to revise the Section 126 Rule to withdraw the section 126 requirements under specified circumstances. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with "Federal mandates" that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. A "Federal mandate" is defined to include a "Federal intergovernmental mandate" and a "Federal private sector mandate" (2 U.S.C. 658(6)). A "Federal intergovernmental mandate," in turn, is defined to include a regulation that "would impose an enforceable duty

upon State, local, or tribal governments," (2 U.S.C. 658(5)(A)(i)), except for, among other things, a duty that is "a condition of Federal assistance" (2 U.S.C. 658(5)(A)(I)). A "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector," with certain exceptions (2 U.S.C. 658(7)(A)).

The EPA has determined that this proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more for either State, local, or tribal governments in the aggregate, or for the private sector. This Federal action does not propose any new requirements, as discussed above. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed action does not have federalism implications. It 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. Today's proposed action would not impose any additional burdens beyond those imposed by the January 2000 Rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA