

or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria applies to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule will be submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR No. 2040.01), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (MD-2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by e-mail at auby.susan@epa.gov; or by calling (202) 566-1672. You may also download a copy off the Internet at <http://www.epa.gov/icr>. The information requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA's policies set forth in 40 CFR part 2, subpart B.

With two exceptions, the final rule will not require any notifications, reports, or recordkeeping beyond those required by the NESHAP General Provisions. The first exception applies to facilities that operate sources that are subject to limits on the type of fuel used. In such cases, the owner or operator may use an alternative fuel under certain conditions but must submit a notification before using the alternative fuel, must report on alternative fuel use after terminating use of the alternative fuel, and must maintain records of alternative fuel use. The second exception pertains to continuous kilns; the final rule requires

reporting and recordkeeping whenever the control device used on a continuous kiln is taken offline for scheduled maintenance.

The annual monitoring, reporting, and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the rule) is estimated to be 726 labor hours per year at a total annual cost of \$31,460. This burden estimate includes time for acquisition, installation, and use of monitoring technology and systems; preparation and a one-time submission of an SSMP, with immediate reports for any event when the procedures in the plan were not followed; preparation of an OM&M plan; one-time notifications; semiannual compliance reports; and recordkeeping. Total annualized capital/startup costs associated with the monitoring requirements (*e.g.*, costs for hiring performance test contractors and purchase of monitoring and file storage equipment) over the 3-year period of the ICR are estimated at \$45,390, with operation and maintenance costs of \$910/yr.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as: (1) A small business whose parent company has fewer than 500 employees, according to

Small Business Administration size standards established under the NAICS for the industries affected by today's rule; (2) a small governmental jurisdiction that is a government or a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that of the six facilities affected by the rule, there is one facility owned by a small company that will experience an impact of less than one-half of one percent (<0.50 percent) of company sales.

Although the final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the rule on small entities. However, we were unable to identify any specific requirements of the final rule that we could relax to reduce the burden of today's rule on small entities. If the final rule had established emission limits more stringent than the MACT floor, we could have reduced the stringency of the emission limits for small entities. However, the emission limits established by today's rule are based on the MACT floor, which is the minimum level of stringency allowed under section 112 of the CAA. Today's rule does provide two options for owners and operators of affected thermal process sources of organic HAP. Thus, the one small entity that is affected by today's rule can choose to comply with either of two organic HAP emission limits. Having the choice between compliance options will provide small business with some measure of flexibility in how it chooses to comply with the final rule.

Today's rule requires continuous parameter monitoring rather than continuous emission monitoring. We believe that the parameter monitoring requirements we have incorporated in the final rule satisfy the requirements of section 114(a)(3) of the CAA for enhanced monitoring without the additional expense that would have been associated with continuous emission monitoring. Finally, the reporting and recordkeeping requirements of today's rule are consistent with the requirements of the General Provisions to 40 CFR part 63. For these reasons, we believe that today's rule satisfies the requirements of